

**2014**  
**CUMULATIVE SUPPLEMENT**  
**TO**  
**MISSISSIPPI CODE**  
**1972 ANNOTATED**

**Issued September 2014**

**CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI  
ENACTED THROUGH THE 2014 REGULAR SESSION  
AND 1ST AND 2ND EXTRAORDINARY SESSIONS  
OF THE LEGISLATURE**

**PUBLISHED BY AUTHORITY OF  
THE LEGISLATURE**

**SUPPLEMENTING**

**Volume 17**

**Title 77**

**(As Revised 2009)**

**For latest statutes or assistance call 1-800-833-9844**

**By the Editorial Staff of the Publisher**



**LexisNexis®**

## QUESTIONS ABOUT THIS PUBLICATION?

For EDITORIAL QUESTIONS concerning this publication, or REPRINT PERMISSION, please call:  
800-833-9844

For CUSTOMER SERVICE ASSISTANCE concerning replacement pages, shipments, billing or other matters, please call:

Customer Service Department at	800-833-9844
Outside the United States and Canada	518-487-3000
FAX	518-487-3584

For INFORMATION ON OTHER MATTHEW BENDER PUBLICATIONS, please call:

Your account manager or	800-223-1940
Outside the United States and Canada	518-487-3000

Copyright © 2014  
by  
THE STATE OF MISSISSIPPI

---

All rights reserved.

LexisNexis and the Knowledge Burst logo are registered trademarks, and Michie is a trademark of Reed Elsevier Properties, Inc., used under license. Matthew Bender is a registered trademark of Matthew Bender Properties, Inc.

5462025

ISBN 978-0-327-09628-3 (Code set)  
ISBN 978-1-4224-5913-3 (Volume 17)



Matthew Bender & Company, Inc.

701 E. Water St., Charlottesville, VA 22902-5389

*[www.lexisnexus.com](http://www.lexisnexus.com)*

## **User's Guide**

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



Digitized by the Internet Archive  
in 2014

<https://archive.org/details/govlawmsv17csy1972>

## **PUBLISHER'S FOREWORD**

### **Statutes**

The 2014 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2014 Regular Session and 1st and 2nd Extraordinary Sessions.

### **Annotations**

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

- Southern Reporter, 3rd Series
- United States Supreme Court Reports
- Supreme Court Reporter
- United States Supreme Court Reports, Lawyers' Edition, 2nd Series
- Federal Reporter, 3rd Series
- Federal Supplement, 2nd Series
- Federal Rules Decisions
- Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

- American Law Reports, 6th Series
- American Law Reports, Federal 2nd
- Mississippi College Law Review
- Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

### **Amendment Notes**

Amendment notes detail how the new legislation affects existing sections.

### **Editor's Notes**

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

## **PUBLISHER'S FOREWORD**

### **Joint Legislative Committee Notes**

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

### **Tables**

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2014 Regular Session and 1st and 2nd Extraordinary Sessions.

### **Index**

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

### **Acknowledgements**

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

### **User Information**

Visit the LexisNexis website at <http://www.lexisnexis.com> for an online bookstore, technical support, customer support, and other company information.

For further information or assistance, please call us toll-free at (800) 833-9844, fax us toll-free at (800) 643-1280, e-mail us at [customer.support@bender.com](mailto:customer.support@bender.com), or write to: Mississippi Code Editor, LexisNexis, 701 E. Water Street, Charlottesville, VA 22902-5389.

September 2014

LexisNexis



# SCHEDULE OF NEW SECTIONS

Added in this Supplement

## TITLE 77. PUBLIC UTILITIES AND CARRIERS

### CHAPTER 1. Public Service Commission

Sec.

- 77-1-55. Commission authorized to hire attorneys or consultants to monitor, investigate and seek relief from existing or proposed interstate rates, charges, etc. [Repealed effective July 1, 2016].

### CHAPTER 3. Regulation of Public Utilities

#### ARTICLE 2. ALTERNATE METHOD OF COST RECOVERY ON CERTAIN BASE LOAD GENERATION

##### GENERAL PROVISIONS

- 77-3-106. Rate mitigation plan; proposal, scope, approval, implementation.

#### MISSISSIPPI PUBLIC UTILITY RATE MITIGATION AND REDUCTION ACT

- 77-3-111. Definitions.  
77-3-113. Contents of petition.  
77-3-115. Petition procedure.  
77-3-117. Commission's responsibility in issuing a finance order; establishment of a special purpose entity to act as issuing entity.  
77-3-119. Filing of true-up report by issuing entity; review by commission.  
77-3-121. Rate reduction bond charge as nonbypassable charge; legal remedy for failure of electric public utility to remit payment of rate reduction bond charge revenues.  
77-3-123. Security property.  
77-3-125. Security property as collateral to secure payment of financing costs; relation to Uniform Commercial Code.  
77-3-127. Liability on rate reduction bonds issued under a financing order.  
77-3-129. Sections 77-3-111 through 77-3-127 deemed full and complete authority for exercise of powers granted therein.

#### ARTICLE 17. CALLER ID ANTI-SPOOFING ACT

- 77-3-801. Short title.  
77-3-803. Definitions.  
77-3-805. Prohibition against entering false information into telephone caller identification system or placing call knowing false information was entered into telephone caller identification system.  
77-3-807. Exceptions.  
77-3-809. Penalties.

### CHAPTER 9. Railroads and Other Common Carriers

#### ARTICLE 3. RAILROADS AND RAILROAD CORPORATIONS

##### SAFETY

- 77-9-250. Operation Lifesaver Program; purpose; Operation Lifesaver Fund created; sources of funds.

## **SCHEDULE OF NEW SECTIONS**

### **CHAPTER 13. Regulation of Excavations Near Underground Utility Facilities**

**SEC.**

- 77-13-23.** Operator waives right to recover damages to operator's underground facilities under certain circumstances; exemption.
- 77-13-25.** Effect of chapter on certain contracts between railroads and owners or operators of underground facilities or utility lines on railroad right-of-way.



# MISSISSIPPI CODE 1972

ANNOTATED

## VOLUME SEVENTEEN

---

### TITLE 77

### PUBLIC UTILITIES AND CARRIERS

Chapter 1.	Public Service Commission .....	77-1-1
Chapter 2.	Public Utilities Staff .....	77-2-1
Chapter 3.	Regulation of Public Utilities .....	77-3-1
Chapter 5.	Electric Power .....	77-5-1
Chapter 9.	Railroads and Other Common Carriers .....	77-9-1
Chapter 11.	Gas Pipelines and Distribution Systems .....	77-11-1
Chapter 13.	Regulation of Excavations Near Underground Utility Facilities .....	77-13-1
Chapter 15.	Local Natural Gas Districts .....	77-15-1

### CHAPTER 1

### Public Service Commission

SEC.

77-1-51.	Repeal of §§ 77-1-1 through 77-1-49.
77-1-55.	Commission authorized to hire attorneys or consultants to monitor, investigate and seek relief from existing or proposed interstate rates, charges, etc. [Repealed effective July 1, 2016].

**§ 77-1-1. Creation of commission; terms, compensation and qualifications of commissioners [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1942, § 7688; Laws, 1938, ch. 139; Laws, 1948, ch. 417, § 1; Laws, 1952, ch. 330, § 1; Laws, 1956, ch. 371, § 1; Laws, 1960, ch. 394, § 1; Laws, 1964, ch. 542, § 6; Laws, 1966, ch. 445, § 23; reenacted without change, Laws, 1982, ch. 389, § 1; Laws, 1989, ch. 573, § 1; reenacted, Laws, 1990, ch. 530, § 1; reenacted and amended, Laws, 1993, ch. 616, § 1; reenacted without change, Laws, 1996, ch. 526, § 1; reenacted without change, Laws, 1998, ch. 303, § 1; reenacted without change, Laws, 2002, ch. 452, § 1; reenacted without change, Laws, 2006, ch. 386, § 1; reenacted without change, Laws, 2008, ch. 406, § 1; reenacted without change, Laws, 2011, ch. 456, § 1; reenacted without change, Laws, 2012, ch. 542, § 1; reenacted without change, Laws, 2013, ch. 332, § 1, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

### § 77-1-3. Seal [Repealed effective December 31, 2016].

**SOURCES:** Codes, 1942, § 7695; Laws, 1938, ch. 139; reenacted without change, Laws, 1982, ch. 382, § 2; reenacted, Laws, 1990, ch. 530, § 2; reenacted without change, Laws, 1993, ch. 616, § 2; reenacted without change, Laws, 1996, ch. 526, § 2; reenacted without change, Laws, 1998, ch. 303, § 2; reenacted without change, Laws, 2002, ch. 452, § 2; reenacted without change, Laws, 2006, ch. 386, § 2; reenacted without change, Laws, 2008, ch. 406, § 2; reenacted without change, Laws, 2011, ch. 456, § 2; reenacted without change, Laws, 2012, ch. 542, § 2; reenacted without change, Laws, 2013, ch. 332, § 2, eff from and after July 1, 2013.

**Editor’s Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

### § 77-1-5. Office, meetings and minutes of commission [Repealed effective December 31, 2016].

**SOURCES:** Codes, 1942, §§ 7688, 7696; Laws, 1938, ch. 139; Laws, 1948, ch. 417, § 1; Laws, 1952, ch. 330, § 1; Laws, 1956, ch. 371, § 1; Laws, 1960, ch. 394, § 1; Laws, 1964, ch. 542, § 6; Laws, 1966, ch. 445, § 23; reenacted without change, Laws, 1982, ch. 389, § 3; reenacted, Laws, 1990, ch. 530, § 3; reenacted without change, Laws, 1993, ch. 616, § 3; reenacted without change, Laws, 1996, ch. 526, § 3; reenacted without change, Laws, 1998, ch.

**303, § 3; reenacted without change, Laws, 2002, ch. 452, § 3; reenacted without change, Laws, 2006, ch. 386, § 3; reenacted without change, Laws, 2008, ch. 406, § 3; reenacted without change, Laws, 2011, ch. 456, § 3; reenacted without change, Laws, 2012, ch. 542, § 3; reenacted without change, Laws, 2013, ch. 332, § 3, eff from and after July 1, 2013.**

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

## **§ 77-1-6. Establishment of Public Service Commission Regulation Fund; administration; annual audit [Repealed effective December 31, 2016].**

**SOURCES:** Laws, 1987, ch. 343, § 1; reenacted and amended, Laws, 1990, ch. 530, § 4; Laws, 1991, ch. 525, § 3; reenacted without change, Laws, 1993, ch. 616, § 4; Laws, reenacted without change, Laws, 1996, ch. 526, § 4 ; reenacted without change, Laws, 1998, ch. 303, § 4; reenacted without change, Laws, 2002, ch. 452, § 4; reenacted without change, Laws, 2006, ch. 386, § 4; reenacted without change, Laws, 2008, ch. 406, § 4; reenacted without change, Laws, 2011, ch. 456, § 4; reenacted without change, Laws, 2012, ch. 542, § 4; reenacted without change, Laws, 2013, ch. 332, § 4, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.



**§ 77-1-11. Acceptance by or offering to commission members, candidates or employees of gifts, passes, campaign contributions or other benefits [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1892, § 4274; 1906, § 4827; Hemingway's 1917, § 7612; 1930, § 7026; 1942, §§ 7688, 7807; Laws, 1938, ch. 139; Laws, 1948, ch. 417, § 1; Laws, 1952, ch. 330, § 1; Laws, 1956, ch. 371, § 1; Laws, 1960, ch. 394, § 1; Laws, 1964, ch. 542, § 6; Laws, 1966, ch. 445, § 23; reenacted without change, Laws, 1982, ch. 389, § 6; reenacted and amended, Laws, 1990, ch. 530, § 5; Laws, 1991, ch. 586, § 1; reenacted and amended, Laws, 1993, ch. 616, § 5; reenacted without change, Laws, 1996, ch. 526, § 5; reenacted without change, Laws, 1998, ch. 303, § 5; reenacted without change, Laws, 2002, ch. 452, § 5; reenacted without change, Laws, 2006, ch. 386, § 5; reenacted without change, Laws, 2008, ch. 406, § 5; reenacted without change, Laws, 2011, ch. 456, § 5; reenacted without change, Laws, 2012, ch. 542, § 5; reenacted without change, Laws, 2013, ch. 332, § 5, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

### ATTORNEY GENERAL OPINIONS

Campaign contributions legally received from regulated utility companies during a prior Mississippi House of Representatives campaign, that were not spent during that campaign, can be used in a prospective upcoming campaign for Public Service Commissioner even though they would otherwise be prohibited contri-

butions, so long as they were made prior to any discussion or consideration of running for Public Service Commissioner and prior to becoming a candidate for the office, as described in Miss. Code Ann. § 77-1-11. Ellington, February 9, 2007, A.G. Op. #07-00071, 2007 Miss. AG LEXIS 20.

**§ 77-1-15. Employment and duties of executive secretary [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1942, § 7689; Laws, 1938, ch. 139; Laws, 1946, ch. 352, § 2; Laws, 1948, ch. 418, § 1; Laws, 1952, ch. 330, § 2; Laws, 1958, ch. 350, § 1; Laws, 1960, ch. 394, § 2; Laws, 1966, ch. 445, § 24; reenacted without

change, Laws, 1982, ch. 389, § 8; Laws, 1987, ch. 343, § 2; reenacted and amended, Laws, 1990, ch. 530, § 6; reenacted without change, Laws, 1993, ch. 616, § 6; reenacted without change, Laws, 1996, ch. 526, § 6; reenacted without change, Laws, 1998, ch. 303, § 6; reenacted without change, Laws, 2002, ch. 452, § 6; reenacted without change, Laws, 2006, ch. 386, § 6; reenacted without change, Laws, 2008, ch. 406, § 6; reenacted without change, Laws, 2011, ch. 456, § 6; reenacted without change, Laws, 2012, ch. 542, § 6; reenacted without change, Laws, 2013, ch. 332, § 6, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

## **§ 77-1-17. Employment and duties of rate expert and assistant [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1942, § 7690; Laws, 1938, ch. 139; Laws, 1946, ch. 352, § 3; Laws, 1948, ch. 418, § 2; Laws, 1952, ch. 330, § 3; Laws, 1958, ch. 350, § 2; Laws, 1966, ch. 445, § 25; reenacted without change, Laws, 1982, ch. 389, § 9; reenacted and amended, Laws, 1990, ch. 530, § 7; reenacted without change, Laws, 1993, ch. 616, § 7; reenacted without change, Laws, 1996, ch. 526, § 7; reenacted without change, Laws, 1998, ch. 303, § 7; reenacted the section without change, Laws, 2002, ch. 452, § 7; reenacted without change, Laws, 2006, ch. 386, § 7; reenacted without change, Laws, 2008, ch. 406, § 7; reenacted without change, Laws, 2011, ch. 456, § 7; reenacted without change, Laws, 2012, ch. 542, § 7; reenacted without change, Laws, 2013, ch. 332, § 7, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.



**Amendment Notes** — The 2011 amendment reenacted the section without change.  
 The 2012 amendment reenacted the section without change.  
 The 2013 amendment reenacted the section without change.

## **§ 77-1-19. Employment of personnel to implement Motor Carrier Regulatory Law [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1942, § 7692; Laws, 1938, ch. 139; Laws, 1944, ch. 268, § 2; Laws, 1946, ch. 352, § 5; Laws, 1948, chs. 327, § 10, 418, § 3; Laws, 1952, ch. 330, § 4; Laws, 1958, ch. 350, § 3; Laws, 1960, ch. 394, § 3; Laws, 1966, ch. 445, § 26; Laws, 1968, ch. 535, § 1; Laws, 1974, ch. 311; Laws, 1978, ch. 377, § 1; reenacted, Laws, 1982, ch. 389, § 10; reenacted and amended, Laws, 1990, ch. 530, § 8; reenacted without change, Laws, 1996, ch. 526, § 8; reenacted without change, Laws, 1998, ch. 303, § 8; reenacted without change, Laws, 2002, ch. 452, § 8; reenacted without change, Laws, 2006, ch. 386, § 8; reenacted without change, Laws, 2008, ch. 406, § 8; reenacted without change, Laws, 2011, ch. 456, § 8; reenacted without change, Laws, 2012, ch. 542, § 8; reenacted without change, Laws, 2013, ch. 332, § 8, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.  
 The 2012 amendment reenacted the section without change.  
 The 2013 amendment reenacted the section without change.

## **§ 77-1-21. Employment of enforcement officer and inspectors to implement Motor Carrier Regulatory Law [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1942, § 7692-01; Laws, 1958, ch. 505, § 2; Laws, 1962, ch. 512, § 1; Laws, 1966, ch. 445, § 27; Laws, 1982, ch. 389, § 11; reenacted, Laws, 1990, ch. 530, § 9; reenacted, Laws, 1993, ch. 616, § 8; reenacted without change, Laws, 1996, ch. 526, § 9; reenacted without change, Laws, 1998, ch. 303, § 9; reenacted without change, Laws, 2002, ch. 452, § 9; Laws, 2004, ch. 595, § 22; reenacted without change, Laws, 2006, ch. 386, § 9; reenacted without change, Laws, 2008, ch. 406, § 9; reenacted without change, Laws, 2011, ch. 456, § 9; reenacted without change, Laws, 2012, ch. 542, § 9; reenacted without change, Laws, 2013, ch. 332, § 9, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:



“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

## **§ 77-1-25. Use of commission property and political activity regulated [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1942, §§ 7692-07, 7806-07; Laws, 1958, ch. 505, § 8; Laws, 1970, ch. 429, § 7; reenacted without change, Laws, 1982, ch. 389, § 13; reenacted, Laws, 1990, ch. 530, § 11; reenacted and amended, Laws, 1993, ch. 616, § 9; reenacted without change, Laws, 1996, ch. 526, § 10; reenacted without change, Laws, 1998, ch. 303, § 10; reenacted without change, Laws, 2002, ch. 452, § 10; reenacted without change, Laws, 2006, ch. 386, § 10; reenacted without change, Laws, 2008, ch. 406, § 10; reenacted without change, Laws, 2011, ch. 456, § 10; reenacted without change, Laws, 2012, ch. 542, § 10; reenacted without change, Laws, 2013, ch. 332, § 10, eff from and after July 1, 2013.

**Editor’s Note** — Laws of 2011, ch. 456, § 24 provide:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

## **§ 77-1-27. Payment of salaries [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1942, §§ 7691, 7693, 7806-09; Laws, 1938, ch. 139; Laws, 1944, ch. 268, §§ 1, 2; Laws, 1946, ch. 352, §§ 4, 5; Laws, 1948, ch. 327, § 11; ch. 417, § 2; Laws, 1952, ch. 330, § 5; Laws, 1956, ch. 371, §§ 2, 3; Laws, 1958, ch. 350,

§ 4; Laws, 1960, ch. 394, § 4; Laws, 1966, ch. 445, § 28; Laws, 1970, ch. 429, § 9; reenacted without change, Laws, 1982, ch. 389, § 14; Laws, 1987, ch. 343, § 3; reenacted and amended, Laws, 1990, ch. 530, § 12; Laws, 1991, ch. 525, § 4; Laws, 1992, ch. 496, § 59; reenacted, Laws, 1993, ch. 616, § 10; reenacted without change, Laws, 1996, ch. 526, § 11; reenacted without change, Laws, 1998, ch. 303, § 11; reenacted without change, Laws, 2002, ch. 452, § 11; reenacted without change, Laws, 2006, ch. 386, § 11; reenacted without change, Laws, 2008, ch. 406, § 11; reenacted without change, Laws, 2011, ch. 456, § 11; reenacted without change, Laws, 2012, ch. 542, § 11; reenacted without change, Laws, 2013, ch. 332, § 11, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

## § 77-1-29. Payments to and disbursements from Public Service Commission Regulation Fund [Repealed effective December 31, 2016].

**SOURCES:** Codes, 1942, § 7694; Laws, 1938, ch. 139; Laws, 1944, ch. 268, § 3; Laws, 1946, ch. 352, § 5; Laws, 1948, ch. 327, § 12; Laws, 1952, ch. 330, § 6; Laws, 1958, ch. 505, § 11; Laws, 1962, ch. 512, § 2; Laws, 1966, ch. 541, § 2; Laws, 1968, ch. 536; Laws, 1972, ch. 472, § 1; Laws, 1974, ch. 312; Laws, 1978, ch. 518, § 1; Laws, 1981, ch. 345, § 1; reenacted, Laws, 1982, ch. 389, § 15; Laws, 1983, ch. 530; Laws, 1987, ch. 343, § 4; reenacted and amended, Laws, 1990, ch. 530, § 13; Laws, 1991, ch. 525, § 5; reenacted without change, Laws, 1993, ch. 616, § 11; reenacted without change, Laws, 1996, ch. 526, § 12; reenacted without change, Laws, 1998, ch. 303, § 12; reenacted without change, Laws, 2002, ch. 452, § 12; reenacted without change, Laws, 2006, ch. 386, § 12; reenacted without change, Laws, 2008, ch. 406, § 12; reenacted without change, Laws, 2011, ch. 456, § 12; reenacted without change, Laws, 2012, ch. 542, § 12; reenacted without change, Laws, 2013, ch. 332, § 12, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall



take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

### **§ 77-1-31. Docket of petitions and complaints [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1892, § 4280; 1906, § 4832; Hemingway’s 1917, § 7617; 1930, § 7031; 1942, § 7808; reenacted without change, Laws, 1982, ch. 389, § 16; reenacted, Laws, 1990, ch. 530, § 14; reenacted without change, Laws, 1993, ch. 616, § 12; reenacted without change, Laws, 1996, ch. 526, § 13; reenacted without change, Laws, 1998, ch. 303, § 13; reenacted without change, Laws, 2002, ch. 452, § 13; reenacted without change, Laws, 2006, ch. 386, § 13; reenacted without change, Laws, 2008, ch. 406, § 13; reenacted without change, Laws, 2011, ch. 456, § 13; reenacted without change, Laws, 2012, ch. 542, § 13; reenacted without change, Laws, 2013, ch. 332, § 13, eff from and after July 1, 2013.

**Editor’s Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

### **§ 77-1-33. Process for witnesses; penalty for failure to testify [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1892, § 4285; 1906, § 4837; Hemingway’s 1917, § 7622; 1930, § 7034; 1942, § 7811; reenacted without change, Laws, 1982, ch. 389, § 17; reenacted and amended, Laws, 1990, ch. 530, § 15; reenacted without change, Laws, 1993, ch. 616, § 13; reenacted without change, Laws, 1996, ch. 526, § 14; reenacted without change, Laws, 1998, ch. 303, § 14; reenacted without change, Laws, 2002, ch. 452, § 14; reenacted without change, Laws, 2006, ch. 386, § 14; reenacted without change, Laws, 2008, ch. 406,

§ 14; reenacted without change, Laws, 2011, ch. 456, § 14; reenacted without change, Laws, 2012, ch. 542, § 14; reenacted without change, Laws, 2013, ch. 332, § 14, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

## § 77-1-35. Administration of oaths; taking of affidavits; examination of witnesses; perjury [Repealed effective December 31, 2016].

**SOURCES:** Codes, 1892, § 4279; 1906, § 4831; Hemingway's 1917, § 7616; 1930, § 7035; 1942, § 7812; reenacted without change, Laws, 1982, ch. 389, § 18; reenacted, Laws, 1990, ch. 530, § 16; reenacted without change, Laws, 1993, ch. 616, § 14; reenacted without change, Laws, 1996, ch. 526, § 15; reenacted without change, Laws, 1998, ch. 303, § 15; reenacted without change, Laws, 2002, ch. 452, § 15; reenacted without change, Laws, 2006, ch. 386, § 15; reenacted without change, Laws, 2008, ch. 406, § 15; reenacted without change, Laws, 2011, ch. 456, § 15; reenacted without change, Laws, 2012, ch. 542, § 15; reenacted without change, Laws, 2013, ch. 332, § 15, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.



**§ 77-1-37. Payment of witnesses [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1892, § 4335; 1906, § 4889; Hemingway's 1917, § 7676; 1930, § 7036; 1942, § 7813; Laws, 1908, ch. 85; reenacted without change, Laws, 1982, ch. 389, § 19; reenacted, Laws, 1990, ch. 530, § 17; reenacted and amended, Laws, 1993, ch. 616, § 15; reenacted without change, Laws, 1996, ch. 526, § 16; reenacted without change, Laws, 1998, ch. 303, § 16; reenacted without change, Laws, 2002, ch. 452, § 16; reenacted without change, Laws, 2006, ch. 386, § 16; reenacted without change, Laws, 2008, ch. 406, § 16; reenacted without change, Laws, 2011, ch. 456, § 16; reenacted without change, Laws, 2012, ch. 542, § 16; reenacted without change, Laws, 2013, ch. 332, § 16, eff from and after July 1, 2013.

**Editor's Note —** Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

**§ 77-1-39. Transcripts of oral testimony [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1930, § 7037; 1942, § 7814; Laws, 1926, ch. 128; reenacted without change, Laws, 1982, ch. 389, § 20; reenacted and amended, Laws, 1990, ch. 530, § 18; reenacted without change, Laws, 1993, ch. 616, § 16; reenacted without change, Laws, 1996, ch. 526, § 17; reenacted without change, Laws, 1998, ch. 303, § 17; reenacted without change, Laws, 2002, ch. 452, § 17; reenacted without change, Laws, 2006, ch. 386, § 17; reenacted without change, Laws, 2008, ch. 406, § 17; reenacted without change, Laws, 2011, ch. 456, § 17; reenacted without change, Laws, 2012, ch. 542, § 17; reenacted without change, Laws, 2013, ch. 332, § 17, eff from and after July 1, 2013.

**Editor's Note —** Laws of 2011, ch. 456, § 24 provide:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-1-41. Findings and determinations shall be in writing; proof and effect thereof [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1892, § 4284; 1906, § 4836; Hemingway's 1917, § 7621; 1930, § 7038; 1942, § 7815; reenacted without change, Laws, 1982, ch. 389, § 21; reenacted, Laws, 1990, ch. 530, § 19; reenacted without change, Laws, 1993, ch. 616, § 17; reenacted without change, Laws, 1996, ch. 526, § 18; reenacted without change, Laws, 1998, ch. 303, § 18; reenacted without change, Laws, 2002, ch. 452, § 18; reenacted without change, Laws, 2006, ch. 386, § 18; reenacted without change, Laws, 2008, ch. 406, § 18; reenacted without change, Laws, 2011, ch. 456, § 18; reenacted without change, Laws, 2012, ch. 542, § 18; reenacted without change, Laws, 2013, ch. 332, § 18, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-1-43. Enforcement of laws and orders, decisions and determinations of commission [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1892, § 4286; 1906, § 4838; Hemingway's 1917, § 7623; 1930, § 7040; 1942, §§ 7701, 7817; Laws, 1938, ch. 139; reenacted without change, Laws, 1982, ch. 389, § 22; reenacted and amended, Laws, 1990, ch. 530, § 20; reenacted without change, Laws, 1993, ch. 616, § 18; reenacted without change, Laws, 1996, ch. 526, § 19; reenacted without change, 1998, ch. 303, § 19; reenacted without change, Laws, 2002, ch. 452, § 19; reenacted without change, Laws, 2006, ch. 386, § 19; reenacted without change,



**Laws, 2008, ch. 406, § 19; reenacted without change, Laws, 2011, ch. 456, § 19; reenacted without change, Laws, 2012, ch. 542, § 19; reenacted without change, Laws, 2013, ch. 332, § 19, eff from and after July 1, 2013.**

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

## **§ 77-1-47. Appeal bonds; supersedeas bonds [Repealed effective December 31, 2016].**

**SOURCES:** Codes, 1942, §§ 7684, 7700; Laws, 1938, chs. 139, 142; reenacted without change, Laws, 1982, ch. 389, § 24; reenacted, Laws, 1990, ch. 530, § 22; reenacted without change, Laws, 1993, ch. 616, § 19; reenacted without change, Laws, 1996, ch. 526, § 20; reenacted without change, Laws, 1998, ch. 303, § 20; reenacted without change, Laws, 2002, ch. 452, § 20; reenacted without change, Laws, 2006, ch. 386, § 20; reenacted without change, Laws, 2008, ch. 406, § 20; reenacted without change, Laws, 2011, ch. 456, § 20; reenacted without change, Laws, 2012, ch. 542, § 20; reenacted without change, Laws, 2013, ch. 332, § 20, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

## § 77-1-49. Annual reports of the commission [Repealed effective December 31, 2016].

**SOURCES:** Codes, 1892, § 4333; 1906, § 4887; Hemingway's 1917, § 7674; 1930, § 7041; 1942, § 7818; Laws, 1908, ch. 84; Laws, 1970, ch. 523, § 1; reenacted without change, Laws, 1982, ch. 389, § 25; reenacted, Laws, 1990, ch. 530, § 23; reenacted and amended, Laws, 1993, ch. 616, § 20; reenacted without change, Laws, 1996, ch. 526, § 21; reenacted without change, Laws, 1998, ch. 303, § 21; reenacted without change, Laws, 2002, ch. 452, § 21; reenacted without change, Laws, 2006, ch. 386, § 21; reenacted without change, Laws, 2008, ch. 406, § 21; reenacted without change, Laws, 2011, ch. 456, § 21; reenacted without change, Laws, 2012, ch. 542, § 21; reenacted without change, Laws, 2013, ch. 332, § 21, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Chapter 332, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment reenacted the section without change.

## § 77-1-51. Repeal of §§ 77-1-1 through 77-1-49.

Sections 77-1-1 through 77-1-49, Mississippi Code of 1972, which create the Public Service Commission and prescribe its powers and duties, shall stand repealed as of December 31, 2016.

**SOURCES:** Laws, 1979, ch. 301, § 53; Laws, 1982, ch. 389, § 26; Laws, 1990, ch. 530, § 24; Laws, 1993, ch. 616, § 21; Laws, 2002, ch. 452, § 22; Laws, 2006, ch. 386, § 22; Laws, 2008, ch. 406, § 22; Laws, 2011, ch. 456, § 22; Laws, 2012, ch. 542, § 22; Laws, 2013, ch. 332, § 22, eff from and after July 1, 2013.

**Editor's Note** — Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the amendment of this section by Chapter 456, Laws of 2011.

**Amendment Notes** — The 2011 amendment substituted "December 31, 2012" for "December 31, 2011" at the end of the paragraph.



The 2012 amendment extended the repealer provision from “December 31, 2012” to “December 31, 2013.”

The 2013 amendment extended the repealer provision from “December 31, 2013” to “December 31, 2016.”

**§ 77-1-55. Commission authorized to hire attorneys or consultants to monitor, investigate and seek relief from existing or proposed interstate rates, charges, etc. [Repealed effective July 1, 2016].**

(1) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, shall have the power to monitor, investigate, and seek relief in any appropriate federal forum from all existing or proposed interstate rates, charges, allocations and classifications, and all rules and practices in relation thereto promulgated and prescribed by or for any public utility as defined in Section 77-3-3(d)(i).

(2) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, may seek relief from any proposed or final decision, order, regulation, rule or law that has an impact on any existing or proposed interstate rate, charge, allocation or classification.

(3) For the purpose of this section, the Public Service Commission and the Executive Director of the Public Utilities Staff may each enter into professional services contracts with one or more attorneys or consultants from a competent, qualified and independent firm as may be required by the commission or the executive director. Costs associated with the professional service contracts shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) for each agency with respect to each rate regulated affected utility in any twelve-month period. The consultants or counsel shall submit periodically, but no less frequently than once each calendar quarter, to the executive director or the commission, as applicable, for approval of payment, itemized bills detailing the work performed. The executive director or the chairman of the commission, as applicable, shall requisition the applicable public utility to make the requisite payments to such consultants. The commission shall allow the utility to recover both the total costs the utility incurred under this section and the carrying charges for those costs through a rate rider established to recover the costs incurred and carrying charges incurred. Such rider shall include a true-up provision to ensure actual recovery of costs paid or otherwise incurred by the utility.

(4) This section shall stand repealed from and after July 1, 2016.

**SOURCES:** Laws, 2012, ch. 527, § 1; Laws, 2013, ch. 332, § 23, eff from and after July 1, 2013.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error near the end of subsection (2) by inserting a comma between “charge” and “allocation.” The Joint Committee ratified the correction at its August 16, 2012, meeting.

**Amendment Notes** — The 2013 amendment extended the repealer provision in (4), from “July 1, 2013” to “July 1, 2016.”

**Cross References** — Public Utilities Staff, see § 77-2-1 et seq.

## CHAPTER 2

### Public Utilities Staff

SEC.

77-2-9.

Powers and duties of executive director; former staff abolished; appointment of new personnel; qualifications; duties and responsibilities of staff.

#### **§ 77-2-9. Powers and duties of executive director; former staff abolished; appointment of new personnel; qualifications; duties and responsibilities of staff.**

(1) The executive director shall have general charge of the operations and administration of the Public Utilities Staff. It shall be the duty and responsibility of the executive director to supervise and manage the offices and personnel on the Public Utilities Staff and formulate written policies and procedures for the effective and efficient operation thereof. The executive director shall be responsible for hiring persons on the staff who meet established qualifications for comparable positions of duty and responsibility. The Public Utilities Staff as formerly created in Section 77-3-8, Mississippi Code of 1972, which consists of the Economic and Planning Division, Legal Division, Engineering Division, Accounting Division and Administrative Services Division, and has a State Personnel Board organizational code of twenty thousand (20,000) or larger, is abolished from and after August 31, 1990. All such former employees shall be eligible to be rehired by the executive director for positions on the Public Utilities Staff created pursuant to Section 77-2-1. Such former employees shall not, by virtue of abolishing such staff, lose any vacation or sick leave benefits previously accrued and, if rehired, shall continue vacation and sick leave as if they had not been terminated. For a period of one (1) year after July 1, 1990, the personnel actions of the Public Utilities Staff shall be exempt from State Personnel Board procedures in order to give the Public Utilities Staff flexibility in making an orderly, effective and timely transition to the mandated reorganization.

(2) The following personnel and members of the Public Utilities Staff shall be competitively appointed by the executive director and shall have at least the knowledge, skills and abilities set forth herein. These requirements shall not be waived, and possession thereof shall be certified by the State Personnel Board:

(a) A chief engineer who is a graduate licensed engineer and who has a thorough knowledge of engineering principles as applied to the design, construction, operation, maintenance and expansion of utility facilities and rate structure determination. The chief engineer shall possess a thorough knowledge of techniques and practices of public utility service and regula-

tion and shall have the ability to evaluate same and to formulate accurate conclusions therefrom.

(b) A certified public accountant who possesses a thorough knowledge of standard accounting procedures, techniques and systems with specific reference to the utility industry. Such accountant shall be experienced in public utility accounting and shall have a thorough knowledge of the financial and organizational structure of public utility companies to include knowledge of the methods by which financing of major additions and extensions to utility operations is acquired.

(c) A director of economics and planning who holds at least a bachelor's degree in economics and possesses a thorough knowledge of the principles and techniques of economic and financial research and statistical analysis. The director of economics and planning shall have a thorough knowledge of the sources of economic, financial and statistical information and the methods of utilizing these sources, as well as considerable knowledge of capital markets with specific reference to utility financing. This employee shall be experienced in conducting analyses of the utility industry, the economy, cost of money, availability and cost of fuel and energy and other related matters within the authority of the commission.

(d) Supportive technical personnel consisting of rate analysts, accountants, inspectors and statisticians as authorized and appropriated by the Legislature.

(e) A general counsel, who shall be a member of The Mississippi Bar, shall have practiced law for a minimum of five (5) years and who shall possess considerable knowledge of utility regulation generally and of the case law, statutory law and the common law relating thereto.

(3) It shall be the duty and responsibility of the Public Utilities Staff by and through the executive director to:

(a) In uncontested matters review, investigate and make appropriate written recommendations to the commission with respect to the reasonableness of rates charged or proposed to be charged by any public utility and with respect to the consistency of such rates with the public policy of assuring an energy supply adequate to protect the public health and safety and to promote the general welfare;

(b) Review, investigate and make appropriate written recommendations to the commission with respect to the service furnished or proposed to be furnished by any utility;

(c) When deemed necessary by the executive director, in the broad public interest of the State of Mississippi, the using and consuming public, and the public utilities, make written recommendations and reports to the commission regarding all commission proceedings affecting the rates or service of any public utility;

(d) When deemed necessary by the executive director, in the broad public interest of the State of Mississippi, the using and consuming public, and the public utilities, petition the commission to initiate proceedings to review, investigate and take appropriate action with respect to the rates or



service of public utilities. Receipt of such petition shall be spread on the minutes of the Public Service Commission. The commission shall, within thirty (30) days of receipt of such petition, spread upon its minutes and forward to the Executive Director of the Public Utilities Staff a response detailing actions taken or proposed to be taken;

(e) When deemed necessary by the executive director, in the broad public interest of the State of Mississippi, the using and consuming public, and the public utilities, make written recommendations and reports to the commission regarding all certificate applications filed and provide assistance to the commission in making the analysis and plans required;

(f) When deemed necessary by the executive director, in the broad public interest of the State of Mississippi, the using and consuming public, and the public utilities, make written recommendations and reports to the commission regarding all proceedings wherein any public utility proposes to reduce or abandon service to the public;

(g) Make studies with respect to standards, regulations, practices or service of any public utility; however, the Public Utilities Staff shall have no duty, responsibility or authority with respect to the enforcement of natural gas pipeline safety law, or the federal railroad safety laws, rules or regulations;

(h) When deemed necessary by the executive director, in the broad public interest of the State of Mississippi, the using and consuming public, and the public utilities, make written recommendations and reports to the commission regarding all commission proceedings with respect to transfers of franchises, mergers, consolidation and combination of public utilities;

(i) When deemed necessary by the executive director, in the broad public interest of the State of Mississippi, the using and consuming public and the public utilities, review and investigate contracts of public utilities with affiliates or subsidiaries;

(j) When deemed necessary by the executive director, in the broad public interest of the State of Mississippi, the using and consuming public, and the public utilities, advise the commission with respect to regulations and transactions;

(k) When deemed necessary by the executive director, in the broad public interest of the State of Mississippi, the using and consuming public and the public utilities, review and make recommendations to the commission on all miscellaneous uncontested filings;

(l) Advise the Public Service Commission in writing as to the broad public interest of the State of Mississippi, the using and consuming public, and the public utilities in all major rate cases and automatic adjustment clauses;

(m) When deemed necessary by the executive director, in the broad public interest of the State of Mississippi, the using and consuming public, and the public utilities, review and investigate the justness and reasonableness, to both the public and the public utility, of rates charged or proposed to be charged by any public utility, the rates of which are subject to regulation under the provisions of this chapter; and



(n) Accumulate evidence and other information from public utilities and other sources as required or as may be requested by the Public Service Commission.

(4) The Executive Director of the Public Utilities Staff shall employ the resources of the staff to furnish to the commission, in a timely and expeditious manner, such information and reports or conduct such investigations and provide such other assistance as may be required in order to enforce the laws providing for the regulation of public utilities.

(5) All written recommendations and reports provided to the Public Service Commission from the Public Utilities Staff shall bear the signature of the executive director, who shall maintain a record thereof, including the date such recommendation or report was submitted to the commission.

(6) In no event shall the duties and responsibilities of the Public Utilities Staff be exercised with regard to matters not within the jurisdiction and powers of the Public Service Commission.

**SOURCES:** Laws, 1990, ch. 530, § 29; Laws, 2014, ch. 379, § 1, eff from and after July 1, 2014.

**Amendment Notes** — The 2014 amendment deleted former (2)(d), which read: “A communications engineer who is a graduate licensed engineer and who has a knowledge of engineering principles as applied to the design, construction, extension and expansion of complex public communications systems with extensive experience in the operation and maintenance of the same, in the application of communications regulations and in the determination of communications rates. The communications engineer shall possess a knowledge of techniques and practices for communications rate analysis and shall have the ability to evaluate same and to formulate accurate conclusions therefrom,” and redesignated the remaining paragraphs accordingly; in (2)(e), deleted “State” following “who shall be a member of The Mississippi”; and in (3)(f), deleted “written” following “and the public utilities, make.”

CHAPTER 3

Regulation of Public Utilities

Article 1.	Certificates of Public Convenience and Necessity; Rates; Service .....	77-3-1
Article 2.	Alternate Method of Cost Recovery on Certain Base Load Generation .....	77-3-101
Article 15.	Mississippi Telephone Solicitation Act .....	77-3-701
Article 17.	Caller ID Anti-spoofing Act .....	77-3-801

ARTICLE 1.

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY; RATES; SERVICE.

SEC.	
77-3-3.	Definitions.
77-3-5.	Jurisdiction and powers of commission.
77-3-15.	Two or more persons holding certificates for similar operations in same municipality.

- 77-3-35. Regulation of rates and charges generally; approval of certain contracts of utilities; regulation of provision of telecommunication services; adoption of alternative methods of regulation; Public Service Commission authorized to regulate only rates, terms and conditions of certain switched access services and single-line flat rate voice communication services; incumbent local exchange carrier to provide primary single-line flat rate voice communication service to premises of permanent residence or business within its franchised service territory if cost to requesting party does not exceed certain amount; commission to retain exclusive original jurisdiction over customer complaints for services continuing to be regulated; certain telecommunication utilities required only to file financial or service quality information required to be filed with Federal Communications Commission.

### § 77-3-3. Definitions.

As used in this chapter:

(a) The term “corporation” includes a private or public corporation, a municipality, an association, a joint-stock association or a business trust.

(b) The term “person” includes a natural person, a partnership of two (2) or more persons having a joint or common interest, a cooperative, nonprofit, limited dividend or mutual association, a corporation, or any other legal entity.

(c) The term “municipality” includes any incorporated city, town or village.

(d) The term “public utility” includes persons and corporations, or their lessees, trustees and receivers now or hereafter owning or operating in this state equipment or facilities for:

(i) The generation, manufacture, transmission or distribution of electricity to or for the public for compensation;

(ii) The transmission, sale, sale for resale, or distribution of natural, artificial, or mixed natural and artificial gas to the public for compensation by means of transportation, transmission, or distribution facilities and equipment located within this state; however, the term shall not include the production and gathering of natural gas, the sale of natural gas in or within the vicinity of the field where produced, or the distribution or sale of liquefied petroleum gas or the sale to the ultimate consumer of natural gas for use as a motor vehicle fuel;

(iii) The transmission, conveyance or reception of any message over wire, of writing, signs, signals, pictures and sounds of all kinds by or for the public, where such service is offered to the public for compensation, and the furnishing, or the furnishing and maintenance, of equipment or facilities to the public, for compensation, for use as a private communications system or part thereof; however, no person or corporation not otherwise a public utility within the meaning of this chapter shall be deemed such solely because of engaging in this state in the furnishing, for private use as last aforementioned, and moreover, nothing in this chapter shall be construed to apply to television stations, radio stations, commu-

nity television antenna services, video services, voice over Internet protocol services (“VoIP”), any wireless services including commercial mobile services, Internet protocol (“IP”) — enabled services or broadband services; and

(iv) The transmission, distribution, sale or resale of water to the public for compensation, or the collection, transmission, treatment or disposal of sewage, or otherwise operating a sewage disposal service, to or for the public for compensation.

The term “public utility” shall not include any person not otherwise a public utility, who furnishes the services or commodity described in this paragraph only to himself, his employees or tenants as an incident of such employee service or tenancy, if such services are not sold or resold to such tenants or employees on a metered or consumption basis other than the submetering authorized under Section 77-3-97.

A public utility’s business other than of the character defined in subparagraphs (i) through (iv) of this paragraph is not subject to the provisions of this chapter.

(e) The term “rate” means and includes every compensation, charge, fare, toll, rental and classification, or the formula or method by which such may be determined, or any of them, demanded, observed, charged or collected by any public utility for any service, product or commodity described in this section, offered by it to the public, and any rules, regulations, practices or contracts relating to any such compensation, charge, fare, toll, rental or classification; however, the term “rate” shall not include charges for electrical current furnished, delivered or sold by one public utility to another for resale.

(f) The word “commission” shall refer to the Public Service Commission of the State of Mississippi, as now existing, unless otherwise indicated.

(g) The term “affiliated interest” or “affiliate” includes:

(i) Any person or corporation owning or holding, directly or indirectly, twenty-five percent (25%) or more of the voting securities of a public utility;

(ii) Any person or corporation in any chain of successive ownership of twenty-five percent (25%) or more of the voting securities of a public utility;

(iii) Any corporation of which fifteen percent (15%) or more of the voting securities is owned or controlled, directly or indirectly, by a public utility;

(iv) Any corporation twenty-five percent (25%) or more of the voting securities of which is owned or controlled, directly or indirectly, by any person or corporation that owns or controls, directly or indirectly, twenty-five percent (25%) or more of the voting securities of any public utility or by any person or corporation in any chain of successive ownership of twenty-five percent (25%) of such securities;

(v) Any person who is an officer or director of a public utility or of any corporation in any chain of successive ownership of fifteen percent (15%) or more of voting securities of a public utility; or



(vi) Any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a public utility, or over which a public utility exercises such control, or that is under a common control with a public utility, such control being the possession, directly or indirectly, of the power to direct or cause the discretion of the management and policies of another, whether such power is established through ownership of voting securities or by any other direct or indirect means.

However, the term “affiliated interest” or “affiliate” shall not include a joint agency organized pursuant to Section 77-5-701 et seq. nor a member municipality thereof.

(h) The term “facilities” includes all the plant and equipment of a public utility, used or useful in furnishing public utility service, including all real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished or supplied for, by or in connection with its public utility business.

(i) The term “cost of service” includes operating expenses, taxes, depreciation, net revenue and operating revenue requirement at a claimed rate of return from public utility operations.

(j) The term “lead-lag study” includes an analysis to determine the amount of capital which investors in a public utility, the rates of which are subject to regulation under the provisions of this chapter, must provide to meet the day-to-day operating costs of the public utility prior to the time such costs are recovered from customers, and the measurement of (i) the lag in collecting from the customer the cost of providing service, and (ii) the lag in paying the cost of providing service by the public utility.

(k) The term “broadband services” means any service that consists of or includes a high-speed access capability to transmit at a rate that is not less than two hundred (200) kilobits per second either in the upstream or downstream direction and either:

(i) Is used to provide access to the Internet, or

(ii) Provides computer processing, information storage, information content or protocol conversion, including any service applications or information service provided over such high-speed access service.

(l) The term “video services” means video programming services without regard to delivery technology, including Internet protocol technology (“Internet Protocol television or IPTV”) and video programming provided as a part of a service that enables users to access content, information, email or other services offered over the public Internet. The term “video programming” means any programming as defined in 47 USCS Section 522(20).

(m) The term “Voice over Internet Protocol services” or “VoIP services” means any service that: (i) enables real-time, two-way voice communications that originate from or terminate to the user’s location in Internet protocol or any successor protocol; (ii) uses a broadband connection from the user’s location; and (iii) permits users generally to receive calls that originate on

the public switched telephone network and to terminate calls to the public switched telephone network.

(n) The term “commercial mobile services” means any services as defined in 47 USCS Section 332(d).

(o) The term “Internet protocol-enabled services” or “IP-enabled services” means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communications is voice, data or video.

Nothing contained in this paragraph shall apply to retail services that are tariffed by the commission.

**SOURCES:** Codes, 1942, § 7716-01; Laws, 1956, ch. 372, § 1; Laws, 1968, ch. 502, § 1; Laws, 1983, ch. 467, § 4; Laws, 1988, ch. 310, § 1; Laws, 1990, ch. 530, § 41; Laws, 1993, ch. 304, § 1; Laws, 2002, ch. 513, § 2; Laws, 2005, ch. 305, § 1; Laws, 2012, ch. 447, § 1, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment in (d)(iii), deleted “or by radio, or otherwise” preceding “of writing, signs, signals, pictures” near the beginning of the paragraph, and inserted language beginning “video services, voice over Internet protocol services” and ending “Internet protocol (‘IP’) - enabled services” at the end of the paragraph; and added (l) through (o).

## JUDICIAL DECISIONS

### 2. Rate-making, generally.

Mississippi Public Service Commission (PSC) properly denied a telecommunications company’s requested rate increase for telephone services on the ground that the company failed to provide evidence that the rate increase was just and reasonable pursuant to Miss. Code Ann. § 77-3-33(1) because the PSC’s interpretation of Miss. Code Ann. § 77-3-35(4) was consistent with the plain language of

the statute, and the PSC retained full regulatory authority over switched access service and single-line flat rate voice communication service; if a “retail rate” was somehow different from a tariff “rate,” as the company suggested, it was a distinction without a difference. Miss. Code Ann. § 77-3-3(e) (Rev. 2000) included all forms of rates within its definition. *Bellsouth Telcomms. v. Miss. PSC*, 18 So. 3d 199 (Miss. 2009).

### § 77-3-5. Jurisdiction and powers of commission.

Subject to the limitations imposed in this article and in accordance with the provisions hereof, the Public Service Commission shall have exclusive original jurisdiction over the intrastate business and property of public utilities. However, the commission shall not have jurisdiction over the production and gathering of natural gas or the sale of natural gas in or within the vicinity of the field where produced, or over the facilities and equipment utilized in any such operations, including, but not limited to, such facilities as separators, scrubbers and gasoline plants of all types. Further, the commission shall not have jurisdiction over the governance, management or other internal affairs of entities as described by paragraph (c) below. Moreover, the commis-

sion shall not have jurisdiction to regulate the rates for the sales and/or distribution:

(a) Of gas, water, electricity or sewage disposal services by municipalities to such persons as said municipalities are authorized by law to serve;

(b) Of gas or electricity by cooperative gas or electric power associations to the members thereof as consumers, except as provided by Section 77-3-17, where service is rendered in a municipality;

(c) Of water or sewage disposal service by nonprofit corporations or associations where the governing body of such corporation or association is elected by the consumers thereof or appointed by the county board of supervisors; or

(d) Of water by districts organized under the provisions of Chapter 45, Laws of 1966-1967, Extraordinary Session.

**SOURCES:** Codes, 1942, § 7716-04; Laws, 1956, ch. 372, § 4; Laws, 1966, ch. 542, § 1; Laws, 1968, ch. 503, § 1; ch. 502, § 2; Laws, 2013, ch. 321, § 2; Laws, 2013, ch. 526, § 1, eff from and after July 1, 2013.

**Joint Legislative Committee Note** — Section 2 of ch. 321, Laws of 2013, effective from and after passage (approved March 7, 2013), amended this section. Section 2 of ch. 526, Laws of 2013, effective from and after July 1, 2013 (approved April 23, 2013), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 526, Laws of 2013, which contains language that specifically provides that it supersedes § 77-3-5 as amended by ch. 321, Laws of 2013.

**Amendment Notes** — The first 2013 amendment (ch. 321) added “and/or distribution” at the end of the last sentence of the introductory paragraph; substituted “Section 77-3-17” for “Sections 77-3-15 and 77-3-17” in (b); and made minor stylistic changes.

The second 2013 amendment (ch. 526), in the first paragraph, added the next-to-last sentence, and added “and/or distribution” to the end; and substituted “Section 77-3-17” for “Sections 77-3-15 and 77-3-17” in (b).

## § 77-3-9. Attorney for public service commission.

**Joint Legislative Committee Note** — Joint Legislative Committee Note- Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the second sentence. The word “who” was deleted preceding “shall possess considerable knowledge.” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

## § 77-3-11. Certificate of public convenience and necessity required; exceptions; complaints prompting hearing as to adequacy of service.

### JUDICIAL DECISIONS

#### 1. In general.

Mississippi Public Service Commission did not err by failing to institute adequacy

of service proceedings against a water, sewer, and fire district because a resident did not allege any inadequacy of service in



his complaint to the Commission, and none of the other petitioners actually joined in the resident's complaint to the Commission. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss.

2009), writ of certiorari denied by 559 U.S. 971, 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (2010).

**§ 77-3-12. Certificate of public convenience and necessity grants exclusive right to public utility to provide services for which certificate issued; utility systems authorized to extend facilities through certificated area of another utility for purposes other than certificated need.**

**JUDICIAL DECISIONS**

**1. Groundwater withdrawal permits.**

Mississippi Department of Environmental Quality Permit Board's decision to grant groundwater withdrawal permits to a county utility authority did not violate a utility company's rights because the permits did not allow the utility authority to sell in the company's certificated area; the

utility authority intended to expand its regional water system by building wells on land it owned in the company's certificated area and selling water to customers outside of the company's certificated area. *Riverbend Utils., Inc. v. Miss. Env'tl. Quality Permit Bd.*, 130 So. 3d 1096 (Miss. 2014).

**§ 77-3-15. Two or more persons holding certificates for similar operations in same municipality.**

Where there shall be two (2) or more persons holding certificates of convenience and necessity for similar operation in the same municipality, such operation may be carried on by such persons within their respective certificated areas and such persons shall be exempt from further application to the commission for extension of or additions to their facilities within their respective certificated areas of said municipality, including any extensions of the corporate limits thereof.

Municipally operated utilities shall not be subject to regulation under this article.

**SOURCES:** Codes, 1942, § 7716-05; Laws, 1956, ch. 372, § 5; Laws, 2013, ch. 321, § 1, eff from and after passage (approved Mar. 7, 2013.)

**Amendment Notes** — The 2013 amendment added "(2)" following "two" near the beginning of the first paragraph; and deleted the former first sentence of the second paragraph which read: "When more than one utility, including cooperatives, operate within a municipality all such utilities, including co-operatives, shall be subject to rate regulation therein."

**§ 77-3-17. Operation of public utility following expiration of municipal franchise; municipal acquisition of utility.**

**Joint Legislative Committee Note** — Joint Legislative Committee Note- Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and

Publication of Legislation corrected typographical errors in the first paragraph, by substituting “subparagraphs (i) and (ii) of paragraph (d)” for “subparagraphs (1) and (2) of paragraph (d)” and “subparagraph (iii) of paragraph (d)” for “subparagraph (3) of paragraph (d).” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

### **§ 77-3-19. Applicant for certificate must obtain a municipal franchise.**

**Joint Legislative Committee Note —** Joint Legislative Committee Note- Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the last paragraph, by substituting “subparagraph (iii) of paragraph (d)” for “subparagraph (3) of paragraph (d).” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

### **§ 77-3-21. Hearing on adequacy of service afforded by certificate holder.**

#### **JUDICIAL DECISIONS**

##### **1. In general.**

Mississippi Public Service Commission did not err by failing to institute adequacy of service proceedings against a water, sewer, and fire district because a resident did not allege any inadequacy of service in his complaint to the Commission, and none of the other petitioners actually

joined in the resident's complaint to the Commission. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 559 U.S. 971, 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (2010).

### **§ 77-3-33. Rates, classifications and service of utilities.**

#### **JUDICIAL DECISIONS**

##### **1. Rate-making, generally.**

Mississippi Public Service Commission (PSC) properly denied a telecommunications company's requested rate increase for telephone services on the ground that the company failed to provide evidence that the rate increase was just and reasonable pursuant to Miss. Code Ann. § 77-3-33(1) because the PSC's interpretation of Miss. Code Ann. § 77-3-35(4) was consistent with the plain language of the statute, and the PSC retained full

regulatory authority over switched access service and single-line flat rate voice communication service; the PSC did not improperly utilize a “rate of return” methodology to determine the company's requested rate increase because it did not base its conclusion upon the lack of a cost of service study but merely listed several types of possible evidence the company could have submitted to support its rate increase request. *Bellsouth Telcomms. v. Miss. PSC*, 18 So. 3d 199 (Miss. 2009).

**§ 77-3-35. Regulation of rates and charges generally; approval of certain contracts of utilities; regulation of provision of telecommunication services; adoption of alternative methods of regulation; Public Service Commission authorized to regulate only rates, terms and conditions of certain switched access services and single-line flat rate voice communication services; incumbent local exchange carrier to provide primary single-line flat rate voice communication service to premises of permanent residence or business within its franchised service territory if cost to requesting party does not exceed certain amount; commission to retain exclusive original jurisdiction over customer complaints for services continuing to be regulated; certain telecommunication utilities required only to file financial or service quality information required to be filed with Federal Communications Commission.**

(1) Subject to the provisions of subsections (2) and (4) of this section, under such reasonable rules and regulations as the commission may prescribe, every public utility, as to the rates which are subject to regulation under the provisions of this article, shall file with the commission, within such time and in such form as the commission may designate, schedules showing such rates and charges established by it and collected and enforced, or to be collected or enforced within the jurisdiction of the commission. The utility shall keep copies of such schedules open to public inspection under such reasonable rules and regulations as the commission may prescribe.

No such public utility shall directly or indirectly, by any device whatsoever, or in anywise, charge, demand, collect or receive from any person or corporation for any service rendered or to be rendered by such public utility a greater or less compensation than that prescribed in the schedules of such public utility applicable thereto then filed in the manner provided in this section, and no person or corporation shall receive or accept any service from any such public utility for a compensation greater or less than prescribed in such schedules.

Utilities selling commodities or rendering any service to cooperatives, municipalities or other nonprofit organizations, shall, at the order of the commission, file schedules of such rates and charges for information purposes only.

The commission may provide, by rules and regulations to be adopted by it, the following:

(a) That utilities may contract with a manufacturer that is not a utility for furnishing the services or commodities described in Section 77-3-3(d) (i), (ii) and (iii) for use in manufacturing;

(b) That utilities described in Section 77-3-3(d)(i) also may contract with a customer that has a minimum yearly electric consumption of two



thousand five hundred (2,500) megawatt hours per year or greater for furnishing the services or commodities described in Section 77-3-3(d)(i); and

(c) That utilities described in Section 77-3-3(d)(ii) also may contract with a customer that has a minimum yearly consumption of eight million five hundred thousand (8,500,000) cubic feet of gas per year or greater for furnishing the services or commodities described in Section 77-3-3(d)(ii).

These contracts may be entered into without reference to the rates or other conditions which may be established or fixed pursuant to other provisions of this article. Such regulations shall provide that before becoming effective any such contract shall be approved by the commission.

(2)(a) The Legislature recognizes that the maintenance of universal telephone service in Mississippi is a continuing goal of the commission and that the public interest requires that the commission be authorized and encouraged to formulate and adopt rules and policies that will permit the commission, in the exercise of its expertise, to regulate and control the provision of telecommunications services to the public in a changing environment where competition and innovation are becoming more commonplace, giving due regard to the interests of consumers, the public, the providers of telecommunications services and the continued availability of good telecommunications service. The commission is authorized to issue more than one (1) competing certificate of public convenience and necessity to provide local exchange telephone service in the same geographical area; provided, that the issuing of any such additional certificates shall not otherwise affect any certificate of public convenience and necessity heretofore issued to any provider of such services.

The commission shall adopt all rules and regulations necessary for implementing this subsection (2)(a).

The commission may apply standards adopted by the Federal Communications Commission that are generally applicable to companies that are designated and operate as eligible telecommunications carriers, pursuant to 47 USCS Section 214(e). The commission may exercise its authority to ensure that these carriers, including commercial mobile radio service providers that receive federal eligible telecommunications status, comply with those standards, only to the extent permitted by and consistent with applicable federal laws and regulations.

The commission retains the authority to issue orders to implement its rules, regulations and the provisions of this chapter, including the authority to grant and modify, impose conditions upon, or revoke a certificate.

(b) The commission may, on its own motion or at the request of any interested party, enter an order, after notice and opportunity for hearing, determining and directing that, in the provision of a service or facility by a utility of the type defined in Section 77-3-3(d)(iii), competition or other market forces adequately protect the public interest, or that a service or facility offered by the utility is discretionary, and that the public interest requires that the utility's rates and charges for such service or facility shall not thereafter be subject to regulation by the commission.

(c) In making its determination whether the rates and charges for a service or facility shall not be subject to regulation by the commission, the commission may consider individually or collectively:

(i) Whether the exercise of commission jurisdiction produces tangible benefits to the utility's customers that exceed those available by reliance on market forces or other factors;

(ii) Whether technological changes, competitive forces, discretionary nature of the service or facility, or regulation by other state and federal regulatory bodies render the exercise of jurisdiction by the Mississippi commission unnecessary or wasteful;

(iii) Whether the exercise of commission jurisdiction inhibits a regulated utility from competing with unregulated providers of functionally similar telecommunications services or equipment;

(iv) Whether the existence of competition tends to prevent abuses, unjust discrimination and extortion in the charges of telecommunications utilities for the service or facility in question;

(v) The availability of the service or facility from other persons and corporations; or

(vi) Any other factors that the commission considers relevant to the public interest.

In making the determination as above set forth, the commission may specify the period of time during which the utility's rates and charges for the service or facility shall not thereafter be subject to regulation. Likewise, after notice and opportunity for hearing, the commission may revoke a determination and direction made under this section, when the commission finds that commission regulation of the utility's rates and charges for the service or facility in question is necessary to protect the public interest.

(3)(a) The commission is authorized to consider and adopt alternative methods of regulation proposed by a utility of the type defined in Section 77-3-3(d)(i), (ii) or (iii) to establish rates for the services furnished by such utility that are fair, just and reasonable to the public and that provide fair, just and reasonable compensation to the utility for such services.

(b) For purposes of this subsection, the phrase "alternative methods of regulation" means the regulation of utility rates and charges by methods other than the rate base or rate of return method of regulation set forth in other provisions of this article.

(4)(a) Notwithstanding any other provisions of this article or any other statute to the contrary, and consistent with the provisions herein, for those public utilities of the type defined in Section 77-3-3(d)(iii) that are subject to the competitive requirements set forth in 47 USCS Section 251 or those public utilities that have waived a suspension granted by the commission of the requirements of 47 USCS Section 251(b) and (c) as authorized by 47 USCS Section 251(f)(2), the Legislature has determined that, in the provision of all services, other than switched access service, competition or other market forces adequately protect the public interest. Therefore, subject to paragraph (d) of this subsection, the commission no longer has jurisdiction

over the services, other than the provision of intrastate switched access service, provided by such public utilities.

(b) For those public utilities of the type defined in Section 77-3-3(d)(iii) that have been granted a suspension by the commission of the requirements of 47 USCS Section 251(b) and (c) as authorized by 47 USCS Section 251(f) (2), the commission, at the request of such public utility, shall enter an order, after notice and opportunity for hearing, determining that such public utility's provision of service will be subject to the same level of regulation as provided in paragraph (a) of this subsection, but only after the commission determines that such public utility has satisfied one (1) of the following conditions:

(i) Has executed interconnection agreements which have been approved by the commission to the extent required under law with two (2) or more local exchange carriers unaffiliated with such public utility;

(ii) Offers for resale at wholesale rates, pursuant to 47 USCS Section 251(c)(4)(A) and (B), such public utility's retail telecommunications services provided to subscribers who are not telecommunications carriers;

(iii) At least two (2) competitive telecommunications providers unaffiliated with such requesting public utility are offering service to such public utility's subscribers; or

(iv) Has experienced a material reduction in access lines or minutes of use in two (2) consecutive years.

A waiver of suspension under paragraph (a) of this subsection shall be effective upon written notification to the commission. The initial rate utilized by such public utility shall be the rate for such service in effect at the time of such waiver under this section. The commission, upon request of the public utility, may return such public utility to a form of regulation permitted under this section.

(c) Subject to paragraph (d) of this subsection, a public utility of the type defined in Section 77-3-3(d)(iii) which is regulated under the provisions of paragraph (a) of this subsection shall not be subject to any rule, regulation or order promulgated by the commission with regard to retail services. The provisions of Section 77-3-23 shall not apply to such public utility regulated under the provisions of paragraph (a) of this subsection.

(d) Nothing in this chapter shall be construed to affect the duties of an incumbent local exchange carrier arising under 47 USCS Sections 251 and 252 and the Federal Communications Commission's regulations implementing these sections, or the commission's authority to approve, arbitrate and enforce interconnection agreements and to resolve disputes pursuant to 47 USCS Sections 251 and 252 and the Federal Communications Commission's regulations implementing these sections or any other applicable federal law or regulation. The commission shall exercise its jurisdiction in its role as a dispute resolution forum to hear complaints between certificated carriers, including complaints to prohibit anti-competitive practices and with respect to enforcement or modification of any wholesale self-effectuating enforcement mechanism plan in place as of July 1, 2011, and to issue orders to



resolve such complaints, provided that such actions are consistent with federal telecommunications law. The commission shall interpret and apply federal, not state, substantive law. The commission shall adjudicate and enforce such claims in accordance with state procedural law and rules. No claim shall be brought to the commission as to which the FCC has exclusive jurisdiction. All complaints brought between carriers pursuant to this section shall be resolved by final order of the commission within one hundred eighty (180) days of the filing of the complaint.

(e) The commission shall retain exclusive original jurisdiction over customer complaints for those services that continue to be regulated. For services no longer regulated, the commission shall have exclusive original jurisdiction to interpret and enforce the terms and conditions of customer service agreements for telecommunications services, but it shall not alter, set aside or refuse to enforce the rates, terms and conditions thereof, either directly or indirectly. No other party shall be allowed to participate in any such complaint proceeding, except for the customer, legal counsel or other representative of the customer, or the public utility involved.

(f) A public utility of the type defined in Section 77-3-3(d)(iii) which is regulated under the provisions of paragraph (a) of this subsection shall not be required to file financial, service quality or other information with the commission. The calculation of the public utility regulatory tax established in Section 77-3-87 shall be based upon ninety thousandths of one percent (90/1000 of 1%) per year of the gross revenues from the intrastate operations of such public utility which is subject to regulation under the provision of paragraph (a) of this subsection. In addition, such public utility shall only be required to adhere to billing for retail telecommunications services in compliance with the federal truth in billing regulations prescribed by the Federal Communications Commission.

(g)(i) In order to transition to the changes effectuated by paragraph (a) of this subsection, the rates, terms and conditions for products and services no longer subject to regulation by the commission which were in effect with a specific term immediately prior to July 1, 2006, shall remain in effect for the duration of the specific term as to customers who subscribed to such products or services prior to July 1, 2006. If no term applied to such products or services at the time such customer subscribed to such products or services, then the rates, terms and conditions governing such products or services shall remain in effect until a written customer service agreement becomes effective as described in subparagraph (ii) of this paragraph (g).

(ii) Except as provided in subparagraph (i) of this paragraph (g), the service provider shall offer existing and new customers a written customer service agreement, which in the case of new customers shall be delivered no later than thirty (30) days after the initiation of service. The customer service agreement shall include a provision advising the customer that he has thirty (30) days from receipt in which to elect:

1. To terminate service with the service provider by contacting such service provider within the thirty-day time period, in which case the

customer shall have the right to pay off the account in the same manner and under the same rates, terms and conditions as set forth in the written customer service agreement provided to the customer, which written customer service agreement shall relate back in its entirety to the date of a new customer's request for service or the date the agreement was sent to an existing customer, as applicable, and shall be in effect until termination through pay off; or

2. To use the services of the service provider or to otherwise continue the account with the service provider after the thirty-day time period has elapsed, either of which shall constitute the customer's assent to all the rates, terms and conditions of the written customer service agreement. The customer service agreement shall be deemed received three (3) business days after deposit in the United States mail, first-class delivery.

(iii) If any service provider desires to modify in any respect any rates, terms or conditions of a customer service agreement, it shall provide at least thirty (30) days' prior written notice of the modification and the proposed effective date to the customer. The customer service agreement shall include a provision advising the customer that he has the option:

1. To terminate service with the service provider by contacting such service provider prior to the effective date, in which case the customer shall have the right to pay off the account in the same manner and under the same rates, terms and conditions as then in effect; or

2. To use the services of the service provider or to otherwise continue the account with the service provider on or after the effective date, either of which shall constitute the customer's assent to the modified written customer service agreement. The customer service agreement shall be deemed received three (3) business days after deposit in the United States mail, first-class delivery.

(h) Nothing herein shall change the obligation of those public utilities described in Section 77-3-3(d)(iii) to obtain a certificate of public convenience and necessity pursuant to this chapter.

**SOURCES:** Codes, 1942, § 7716-09; Laws, 1956, ch. 372, § 9; Laws, 1988, ch. 338; Laws, 1994, ch. 315, § 1; Laws, 1995, ch. 348, § 1; Laws, 1996, ch. 304, § 1; Laws, 2006, ch. 313, § 1; Laws, 2012, ch. 447, § 2, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected typographical errors in the last paragraph in (4)(b), by substituting “may return such public utility to a form of regulation permitted under this section” for “may return such public utility to return to a form of regulation permitted under Section 77-3-35.” The Joint Committee ratified the correction at its July 22, 2010, meeting.

**Amendment Notes** — The 2012 amendment added the next-to-last paragraph of (2)(a); in (4)(a), deleted “and single-line flat rate voice communication service” preceding “competition or other market forces” in the first sentence, rewrote the second sentence, and deleted the former last sentence which read: “The retail rates for such single-line flat rate voice communication service beginning January 1, 2007, and every succeeding

January 1 may only be increased during the calendar year by an amount that does not exceed the rates for such service on January 1 of the previous year, plus the increase in the Consumer Price Index for all Urban Consumers as reported by the United States Department of Labor, Bureau of Labor Statistics"; and rewrote (4)(c), (d), and (f).

## JUDICIAL DECISIONS

2. Rate-making, generally.
3. Regulatory authority.

### 2. Rate-making, generally.

Mississippi Public Service Commission (PSC) properly denied a telecommunications company's requested rate increase for telephone services on the ground that the company failed to provide evidence that the rate increase was just and reasonable pursuant to Miss. Code Ann. § 77-3-33(1) because the PSC's interpretation of Miss. Code Ann. § 77-3-35(4) was consistent with the plain language of the statute, and the PSC retained full regulatory authority over switched access service and single-line flat rate voice communication service; the PSC did not improperly utilize a "rate of return" methodology to determine the company's requested rate increase because it did not base its conclusion upon the lack of a cost of service study but merely listed several types of possible evidence the company

could have submitted to support its rate increase request. *Bellsouth Telcomms. v. Miss. PSC*, 18 So. 3d 199 (Miss. 2009).

### 3. Regulatory authority.

By the very terms of Miss. Code Ann. § 77-3-35(4), the statute's revocation of regulatory authority does not apply to switched access service and single-line flat rate voice communication service because the statute specifically reserves to the Mississippi Public Service Commission (PSC) regulatory authority over those two types of service; nothing in the statute, either implicitly or explicitly, limits the PSC's regulatory function to mere ministerial approval or disapproval after "doing the math," and the cap on the limit of annual increases reads as exactly that: a cap on the amount retail rates for the two particular services may be increased in a given year. *Bellsouth Telcomms. v. Miss. PSC*, 18 So. 3d 199 (Miss. 2009).

## § 77-3-37. Changes in rates.

**Cross References** — True-up report requesting true-up adjustment of rate reduction bond charge under §§ 77-3-111 through 77-3-127 does not constitute change in rates and is not subject to requirements of Section 77-3-37 or 77-3-39, see § 77-3-119.

## § 77-3-39. Hearing on rate change; suspension of proposed rates.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in subsection (4). The word "and" was inserted before "(c)." The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

**Cross References** — True-up report requesting true-up adjustment of rate reduction bond charge under §§ 77-3-111 through 77-3-127 does not constitute change in rates and is not subject to requirements of Section 77-3-37 or 77-3-39, see § 77-3-119.



**§ 77-3-46. Management reviews of public utility companies.**

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the first paragraph, by substituting “which has in excess of twenty-five thousand (25,000) customers” for “which has in excess a twenty-five thousand (25,000) customers.” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

**§ 77-3-47. Hearings by commission.**

**JUDICIAL DECISIONS**

1. In general.
2. Notice.

**1. In general.**

Mississippi Public Service Commission did not commit reversible error in denying a resident a hearing when it dismissed his complaint challenging the Commission’s decision to grant a Supplemental Certificate of Public Convenience and Necessity (CCN) to a water, sewer, and fire district because the resident’s rights were not infringed by the lack of a hearing, and the public interest would not have been served by granting the resident a hearing, which would have been futile; Miss. Code R. § 26-000-001 and Miss. Code Ann. § 77-3-47 authorize the Commission to dismiss a complaint without a hearing, and a hearing is not necessary in the public interest or for the protection of substantial rights. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 559 U.S. 971, 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (2010).

**2. Notice.**

Supreme court had jurisdiction over the orders of the Mississippi Public Service

Commission denying a resident’s motion to amend his complaint challenging the grant of a Supplemental Certificate of Public Convenience and Necessity (CCN) to a water, sewer and fire district and dismissing the complaint but not over the grant of the supplemental CCN because the resident attempted to appeal the supplemental CCN decision by way of appealing the Commission’s orders, and the appeal was untimely since it was filed more than four years after the order granting the supplemental CCN; the Commission filed a timely notice in a newspaper that a decentralized system would be implemented, and the resident was notified of the planned implementation when the district adopted an ordinance, published notice concerning the adoption of the ordinance, and then passed the ordinance after a public hearing at which no one expressed opposition. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 559 U.S. 971, 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (2010).

**§ 77-3-67. Appeals to chancery court.**

**JUDICIAL DECISIONS**

1. In general.
2. Appeal timely.
3. Standing.

**1. In general.**

Supreme court had jurisdiction over the orders of the Mississippi Public Service

Commission denying a resident's motion to amend his complaint challenging the grant of a Supplemental Certificate of Public Convenience and Necessity (CCN) to a water, sewer and fire district and dismissing the complaint but not over the grant of the supplemental CCN because the resident attempted to appeal the supplemental CCN decision by way of appealing the Commission's orders, and the appeal was untimely since it was filed more than four years after the order granting the supplemental CCN; the Commission filed a timely notice in a newspaper that a decentralized system would be implemented, and the resident was notified of the planned implementation when the district adopted an ordinance, published notice concerning the adoption of the ordinance, and then passed the ordinance after a public hearing at which no one expressed opposition. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 559 U.S. 971, 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (2010).

## 2. Appeal timely.

Chancery court erred in finding that it was without jurisdiction to hear the resi-

dent's appeal of the denial of his motion to amend his complaint challenging the Mississippi Public Service Commission's grant of a Supplemental Certificate of Public Convenience and Necessity to a water, sewer, and fire district because the resident appealed within the thirty-day statutory deadline of the final order dismissing his complaint, Miss. Code Ann. § 77-3-67(1); the resident was not required to appeal the denial of his motion to amend within thirty days of the order because the thirty-day appeal deadline applied only to the final order. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 559 U.S. 971, 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (2010).

## 3. Standing.

Because a resident was not a party to the Mississippi Public Service Commission's decision to grant a water, sewer, and fire district a supplemental Supplemental Certificate of Public Convenience and Necessity, he could not appeal from that decision. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 559 U.S. 971, 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (2010).

## ARTICLE 2.

### ALTERNATE METHOD OF COST RECOVERY ON CERTAIN BASE LOAD GENERATION.

General Provisions .....	77-3-101
Mississippi Public Utility Rate Mitigation and Reduction Act .....	77-3-111

## GENERAL PROVISIONS

### SEC.

77-3-106.	Rate mitigation plan; proposal, scope, approval, implementation.
-----------	--

## § 77-3-106. Rate mitigation plan; proposal, scope, approval, implementation.

### (1) As used in this section:

(a) The term "rate mitigation plan" means a rate plan designed to mitigate the initial rate impacts of collecting the revenue requirements associated with the inclusion of a newly constructed generating facility in rate base and rates by establishing a plan for collecting or phasing in the revenue requirements over a period that is not to exceed ten (10) years.

(b) The term “generating facility” shall have the same meaning as defined in Section 77-3-103.

(2) A rate mitigation plan may be approved by the commission in connection with a generating facility that is owned, in whole or in part, by an electric public utility whose rates are subject to the jurisdiction of the commission in accordance with the procedures contained in this section. The rate mitigation plan:

(a) Shall be proposed by an electric public utility through a separate petition or by an electric public utility in connection with any other rate proceeding pending before the commission related to a generating facility;

(b) Shall be implemented through rate schedules, rate riders, methods, formulas or other mechanisms, which have previously been proposed by the electric public utility or, if amended, are subsequently agreed to by the electric public utility;

(c) Shall not be requested or filed earlier than twelve (12) months prior to the beginning of the calendar year in which a generating facility is scheduled to be placed into commercial operation; and

(d) Shall be limited in scope to only the investment, expenses, revenues and rates of return associated with the construction, ownership and operation of a generating facility and all related assets, facilities and equipment incurred or to be incurred through the end of the rate mitigation period. The commission’s review of a rate mitigation plan shall be conducted and all existing and applicable statutes and rules related thereto shall be enforced in a manner consistent with the limitations prescribed in this subsection (2)(d).

(3) Subject to the limitation contained in subsection (2)(d) above any filing by an electric public utility requesting a rate mitigation plan shall:

(a) Present a rate mitigation plan by providing the information required in Section 77-3-37(2)(e), (f) and (g) for each year of the proposed rate mitigation period; and

(b) Present a conventional rate recovery proposal without a rate mitigation plan by complying with Section 77-3-37(2).

(4) Subject to the limitation contained in subsection (2)(d) of this section, the commission’s consideration of any rate mitigation plan shall be governed by all of the provisions of Article 1 and 2 of this Chapter 3, Title 77, except Sections 77-3-37(4) and 77-3-105(2)(c) and any rules promulgated and related thereto.

(5) In approving any rate mitigation plan, the commission:

(a) Shall include a finding establishing the initially approved rate base;

(b) Shall consider and evaluate the revenues, costs, rate base and returns applicable over the entire rate mitigation period; and

(c) Shall, for the rate mitigation period, allow recovery of a return, not to exceed the weighted cost of capital rate of return approved in the rate mitigation plan, on the balance of any unrecovered or deferred amounts accrued pursuant to the rate mitigation plan for the account of either the electric public utility or the electric public utility’s retail customers during the rate mitigation period.



(6) Following the implementation of any rate mitigation approved by the commission, revenue adjustments made during and in accordance with the rate mitigation plan shall not constitute changes in rates pursuant to Sections 77-3-37 or 77-3-39. The revenues, investment, expenses and rate of return applicable to a commission-approved rate mitigation plan shall, during the rate mitigation period, be excluded from the calculation of rates for the subject electric public utility in any other rate proceeding before the commission.

(7) The authority granted to the commission herein to implement a rate mitigation plan shall not be deemed to be in conflict of the requirements of Sections 77-3-33 and 77-3-43.

(8) Notwithstanding Section 77-3-41, Section 77-3-61, or any other provision of Title 77, any order implementing a rate mitigation plan under this article shall be irrevocable once there is a final order for which the time for all appeals has expired. A final order implementing a rate mitigation plan shall, during the rate mitigation period, be binding in all future regulatory proceedings affecting such generating facility or rates or charges associated with such generating facility. Neither the commission nor any other governmental authority established by Mississippi law may amend, modify, or terminate the rate mitigation plan by any subsequent action or reduce, impair, postpone, terminate or otherwise adjust the charges established by the rate mitigation plan order until after the rate mitigation period has elapsed and such rate mitigation plan may then only be revised in accordance with Article 1 of this Chapter 3, Title 77. Notwithstanding anything contained herein to the contrary, nothing in this section shall diminish, or be construed to diminish, the power and authority of the commission in the event the generating facility is abandoned, cancelled or otherwise fails to become used and useful in the provision of electric service.

(9) The rates and charges in effect at the end of the rate mitigation period shall remain in effect after the rate mitigation plan unless and until modified in accordance with Article 1 of this Chapter 3, Title 77.

**SOURCES:** Laws, 2013, ch. 306, § 1, eff from and after passage (approved Feb. 26, 2013.)

**Editor's Note** — Laws of 2013, ch. 306, § 2, provides:

“SECTION 2. The provisions of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted.”

## MISSISSIPPI PUBLIC UTILITY RATE MITIGATION AND REDUCTION ACT

SEC.	
77-3-111.	Definitions.
77-3-113.	Contents of petition.
77-3-115.	Petition procedure.
77-3-117.	Commission's responsibility in issuing a finance order; establishment of a special purpose entity to act as issuing entity.
77-3-119.	Filing of true-up report by issuing entity; review by commission.

- 77-3-121. Rate reduction bond charge as nonbypassable charge; legal remedy for failure of electric public utility to remit payment of rate reduction bond charge revenues.
- 77-3-123. Security property.
- 77-3-125. Security property as collateral to secure payment of financing costs; relation to Uniform Commercial Code.
- 77-3-127. Liability on rate reduction bonds issued under a financing order.
- 77-3-129. Sections 77-3-111 through 77-3-127 deemed full and complete authority for exercise of powers granted therein.

## § 77-3-111. Definitions.

As used in Sections 77-3-111 through 77-3-127:

(a) "Assignee" means any person or legal entity to which an interest in security property is sold, assigned, transferred or conveyed (other than as security) and any successor to or subsequent assignee of such a person or legal entity.

(b) "Bondholder" means any holder or owner of a rate reduction bond.

(c) "Commission" means the Mississippi Public Service Commission.

(d) "Financing costs" means:

(i) Any payment made on or before issuance of rate reduction bonds and any amount required to fund any reserves or other accounts established pursuant to the terms of any financing order, indenture or other financing documents pertaining to rate reduction bonds;

(ii) Principal, interest and acquisition, defeasance or redemption premiums and all other amounts that are payable on rate reduction bonds;

(iii) Any amount required to be paid under any financing document;

(iv) Any amount required to fund or replenish any reserves or other accounts established pursuant to the terms of any financing order, indenture, financing document or other financing document pertaining to rate reduction bonds;

(v) Any taxes, fees, franchise, transfer, profits, license, excise, severance, customs, duties, assessments or other charges imposed by any governmental or taxing authority on the rate reduction bond charge revenue whether paid, payable or accrued;

(vi) Any other cost related to issuing, supporting, repaying, servicing, retiring, refinancing or refunding rate reduction bonds and all other required amounts payable in connection therewith, including, but not limited to, servicing fees and expenses, accounting and auditing fees and expenses, legal fees and expenses, consulting fees and expenses, security registration fees, trustee fees and expenses, insurance premiums, administrative fees, placement and underwriting fees, rating agency fees, stock exchange listing fees, compliance fees, costs to create or amend financing documents, and costs to obtain waivers, consents or approvals;

(vii) Any costs and expenses associated with the creation, operation, management and winding up of any special purpose entity created by the electric public utility in connection with the issuance of rate reduction bonds; and

(viii) Any other costs deemed appropriate by the commission.

(e) “Financing document” or “financing documents” means any bond, insurance policy, letter of credit, reserve account, surety bond, swap agreement, hedging arrangement, liquidity or credit support arrangement, trust indenture, security agreement, pledge agreement, financing agreement, transfer or assignment document, or other document or financial arrangement entered into in connection with the issuance of rate reduction bonds.

(f) “Financing party” shall include any and all of the following:

(i) Any trustee, collateral agent, or other person acting on behalf of for the benefit of any bondholder under any financing document; or

(ii) Any party to a financing document, the rights and obligations of which relate to or depend upon the existence of security property, the enforcement and priority of a security interest in security property, the timely collection and payment of rate reduction bond charge revenues, or a combination of any of the foregoing.

(g) “Financing statement” shall have the same meaning as that provided in Article 9 of the Uniform Commercial Code, as same may be amended from time to time.

(h) “Issuing entity” means any person or legal entity, including, but not limited to, any corporation, limited liability company, partnership, limited partnership, public authority or trust, that issues rate reduction bonds pursuant to a financing order issued pursuant to Sections 77-3-111 through 77-3-127.

(i) “Non-bypassable” means, with respect to rate reduction bond charges, that, so long as rate reduction bonds are outstanding and the related financing costs have not been recovered in full, such charges cannot be avoided by any retail customer of the electric public utility, including special contract customers, or any other person located within the electric public utility’s certificated area that is directly or indirectly connected to electric facilities of the electric public utility or its successors or assignees and receiving retail electric service pursuant to a commission approved rate, even if such retail customer or other person elects to purchase electricity from an alternative electricity supplier following a fundamental change in regulation of electric public utilities in this state.

(j) “Qualifying facility” shall mean a generating facility as the term is defined in Section 77-3-103:

(i) That uses coal gasification or clean coal technology with a coal fuel stock derived, in whole or in part, from the State of Mississippi; and

(ii) That is placed into commercial operation on or before December 31, 2020.

(k) “Qualifying facility cost” means any cost incurred or expected to be incurred by an electric public utility related to a qualifying facility, including, but not limited to, pre-construction costs, construction costs, capitalized cost relating to a regulatory asset, any amounts accrued as allowance for funds used during construction and construction work in progress.

(l) “Rate reduction bonds” or “bonds” means those debentures, notes, certificates of participation, certificates of beneficial interest, certificates of



ownership or other evidences of indebtedness or ownership that are issued by an issuing entity under a financing order, the proceeds of which are used directly or indirectly to recover, finance or refinance generation facility costs and financing costs, and that are secured by or payable from security property and which shall have a maturity date of no more than twenty (20) years after the date of issuance.

(m) “Rate reduction bond charge” means the nonbypassable tariff, rate, charge, formula or mechanism established in a financing order to fully recover financing costs, which is to be imposed on, and as a part of, all retail customer bills, including special contract customer bills, and collected by an electric public utility or its successors or assignees, or a collection agent, separate and apart from the base rates of the electric public utility.

(n) “Rate reduction bond charge revenue” means any and all revenues, receipts, collections, claims, rights to payments, payments, monies or other proceeds arising from the security property and collected by an electric public utility or other collection agent that is attributable to a rate reduction bond charge.

(o) “Secured party” means a financing party to which an electric public utility, issuing entity or their respective successors or assignees mortgages, negotiates, hypothecates, grants, pledges, or creates a security interest or lien on all or any portion of the rights in or to the security property.

(p) “Security property” means all rights and interests of an electric public utility established upon the issuance of a financing order under Sections 77-3-111 through 77-3-127, including, but not limited to:

(i) The right to bill and to obtain periodic true-up adjustments to the rate reduction bond charge as provided in the financing order and Sections 77-3-111 through 77-3-127;

(ii) The right to receive rate reduction bond charge revenue, as periodically adjusted, imposed, billed, collected and transferred; and

(iii) All revenues, receipts, collections, claims, rights to payments, payments, money or other proceeds arising from the rights and interests described in subparagraphs (i) and (ii) of this subsection, regardless of whether such collections, claims, rights to payment, payments, money or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, receipts, collections, rights to payment, payments, money or other proceeds of an electric public utility or collection agent.

(q) “Uniform Commercial Code” shall have the same meaning as provided in Title 75 of the Mississippi Code of 1972.

**SOURCES:** Laws, 2013, ch. 305, § 3, eff from and after passage (approved Feb. 26, 2013.)

**Editor’s Note** — Laws of 2013, ch. 305, §§ 1 and 2, provide:

“SECTION 1. This act shall be known and may be cited as the “Mississippi Public Utility Rate Mitigation and Reduction Act.

“SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

“(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

“(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

“(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

“(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest.”

### **§ 77-3-113. Contents of petition.**

(1) Subject to the agreement by the affected electric public utility, the commission shall cause to be financed, consistent with the procedures set forth in Sections 77-3-111 through 77-3-127, all qualifying facility costs found to be prudent by the commission that are incurred over the estimate of such costs presented by the electric public utility in the certificate proceeding for the qualifying facility, up to a maximum of One Billion Dollars (\$1,000,000,000.00). To accomplish the goals contained herein, the commission shall enter a financing order authorizing the issuance of rate reduction bonds by an electric public utility and to make such other findings and determinations as are provided for in Sections 77-3-111 through 77-3-127. The commission shall utilize a competitive Requests for Proposals process to select any bond attorney or counsel and may not accept any proposal in excess of Five Hundred Thousand Dollars (\$500,000.00).

(2) Upon request by the commission in accordance with the requirements of subsection (1) of this section, the electric public utility owning a qualifying facility, in whole or in part, and whose rates are subject to the jurisdiction of the commission, shall submit a petition presenting the following information:

(a) Describe the qualifying facility and related qualifying facility costs in rate base or to be included in rate base;

(b) Indicate the total amount of qualifying facility cost required to be financed by the electric public utility using proceeds from rate reduction bonds;

(c) Estimate the financing costs related to the rate reduction bonds;

(d) Describe and estimate the rate reduction bond charge necessary to recover the financing costs as they become due and the proposed period for recovery of such costs;

(e) Estimate the projected cost savings to customers based upon then current market conditions resulting from financing the qualifying facility cost with rate reduction bonds as opposed to including the amount of such cost in rate base and recovering the revenue requirements associated with such cost over the depreciable life of the qualifying facility;

(f) File with the commission direct testimony supporting the application; and

(g) Timely provide the commission or the public utilities staff, as applicable, such additional information and documentation as either may reasonably request.

**SOURCES:** Laws, 2013, ch. 305, § 4, eff from and after passage (approved Feb. 26, 2013.)

**Editor's Note** — Laws of 2013, ch. 305, §§ 1 and 2, provide:

“SECTION 1. This act shall be known and may be cited as the “Mississippi Public Utility Rate Mitigation and Reduction Act.

“SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

“(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

“(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

“(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

“(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest.”

### **§ 77-3-115. Petition procedure.**

(1) Proceedings on a petition submitted pursuant to Section 77-3-113 shall be disposed of in accordance with the provisions of Section 77-3-47 and applicable commission procedural rules, except that the provisions of this Section 77-3-115, to the extent applicable, shall control.

(2) Within seven (7) days after the filing of a petition, the commission shall issue a scheduling order, which sets a hearing date and provides for a decision on the issuance of a financing order not more than one hundred twenty (120) days after the date the petition is filed.

(3) When deemed necessary by the Executive Director of the Public Utilities Staff, the staff shall conduct an independent investigation as to the electric public utility's petition for a financing order subject to and within the time limitations prescribed in Sections 77-3-111 through 77-3-127.

(4) Not more than one hundred twenty (120) days after the date the petition is filed, the commission shall issue a financing order or an order denying the petition.

(5) Any party to the commission proceeding may petition the commission for reconsideration of an order granting or denying a petition for the issuance of a financing order not more than seven (7) days after the date the order is issued. The commission shall rule on the petition for reconsideration not more than fourteen (14) days after the filing of such petition. A failure by the commission to act upon such petition for reconsideration within the specified time period shall be deemed a denial of the petition for reconsideration, and



the order of the commission granting or denying a petition for the issuance of a financing order shall be deemed final.

(6) Any judicial review shall be as provided in Section 77-3-72; provided, however, that any person, other than the electric public utility that is the subject of the financing order, seeking to appeal a financing order issued pursuant to Sections 77-3-111 through 77-3-127, or any prudence determination related thereto, shall not perfect its appeal unless and until a bond of sufficient amount to protect the customer savings projected to be realized through the issuance of rate reduction bonds as determined by the commission in the financing order pursuant to Section 77-3-117(b) is filed with the commission prior to expiration of time provided under Section 77-3-72 for the filing of a notice of appeal. If an appeal of an order granting or denying a petition for the issuance of a financing order is perfected pursuant to the procedure provided above, the electric public utility shall be authorized to establish a regulatory asset for the purpose of deferring a return on the qualifying facility cost intended to be financed by the rate reduction bond proceeds equal to the utility's weighted average cost of capital until such time as there is a final financing order for which the time for all appeals has expired. A financing order shall provide that any and all deferred return of the electric public utility during the pendency of an appeal may be financed as qualifying costs pursuant to the provisions of Sections 77-3-111 through 77-3-127.

(7) The filing of a petition by an electric public utility, the issuance of a financing order, the issuance of rate reduction bonds and the implementation or adjustment of a rate reduction bond charge under Sections 77-3-111 through 77-3-127 shall not constitute a change in rates pursuant to Section 77-3-37 or 77-3-39.

**SOURCES: Laws, 2013, ch. 305, § 5, eff from and after passage (approved Feb. 26, 2013.)**

**Editor's Note** — Laws of 2013, ch. 305, §§ 1 and 2, provide:

“SECTION 1. This act shall be known and may be cited as the “Mississippi Public Utility Rate Mitigation and Reduction Act.

“SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

“(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

“(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

“(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

“(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest.”

**§ 77-3-117. Commission's responsibility in issuing a finance order; establishment of a special purpose entity to act as issuing entity.**

(1) In a financing order issued on behalf of an electric public utility, the commission shall:

(a) Specify the maximum amount of qualifying facility cost to be financed through the issuance of rate reduction bonds.

(b) Determine that the financing method proposed pursuant to Sections 77-3-111 through 77-3-127 is reasonably expected to result in lower overall costs to customers associated with the qualifying facility compared to including the qualifying facility cost amount specified in paragraph (a) of this subsection (1) in rate base and recovering the revenue requirements over the depreciable life of the qualifying facility.

(c) Provide that, until the rate reduction bonds are paid in full and all related financing costs are fully recovered, the imposition and collection of the rate reduction bond charge shall be nonbypassable as such term is defined in Sections 77-3-111 through 77-3-127.

(d) Establish and employ a formula-based true-up mechanism for making expeditious periodic adjustments in the rate reduction bond charge that customers are required to pay under the financing order and for making any adjustments to the rate reduction bond charge that are necessary to correct for any overcollection or undercollection of the rate reduction bond charge or to otherwise ensure the timely payment of financing costs.

(e) Specify the security property to be created in favor of the electric public utility upon the issuance of a financing order to secure prompt payment of the rate reduction bonds and all associated financing costs.

(f) Specify, to the extent reasonably practicable, the terms and conditions of the rate reduction bonds, including, but not limited to, repayment schedules, expected interest rates and financing costs; provided, however, the commission shall afford the issuing entity flexibility in establishing the terms and conditions for the rate reduction bonds to accommodate changes in market conditions, including, but not limited to, repayment schedules, interest rates, financing costs, collateral requirements, required debt service and other reserves, and the ability of the issuing entity, at its option, to effect a series of issuances of rate reduction bonds and correlated assignments, sales, pledges or other transfers of security property.

(g) Provide that the rate reduction bond charge be allocated to the customer rate classes or rate schedules in the same manner that each such class or rate schedule is allocated its portion of the revenue requirements associated with the qualifying facility included in the electric public utilities rate base and rates.

(h) Provide that upon the issuance of rate reduction bonds, the electric public utility shall institute the resulting initial rate reduction bond charge in accordance with the financing order and such initial rate reduction bond charge shall be final and effective upon the issuance of such rate reduction bonds without further action of the commission.

(i) Include any other conditions that the commission considers appropriate and that are not otherwise inconsistent with Sections 77-3-111 through 77-3-127.

(j) Unless otherwise specified in the financing order, any rate reduction bond charge revenue remaining after all financing costs have been paid in full shall be credited to the retail customers of the electric public utility in a manner to be determined by the commission.

(2) Following issuance of a financing order, the electric public utility may establish a special purpose entity for the purpose of acting as the issuing entity and such issuing entity may issue rate reduction bonds as provided in the financing order. The electric public utility retains sole discretion to establish a special purpose entity and cause it to issue rate reduction bonds. An issuing entity established by an electric public utility pursuant to Sections 77-3-111 through 77-3-127 shall not constitute a public utility pursuant to Section 77-3-3.

(3) If an electric public utility subject to a financing order creates a special purpose entity for the purpose of acting as the issuing entity, rate reduction bonds shall not be considered a debt of the electric public utility for regulatory or ratemaking purposes; but, the electric public utility shall have only a duty to collect and remit to the issuing entity all rate reduction bond charge revenue with respect to the rate reduction bonds. Similarly, the special purpose entity or any other assignee of security property shall have no ownership interest in the qualifying facility or any related facilities, property and assets of the electric public utility whether fully or partially financed with proceeds from rate reduction bonds.

(4) A financing order shall remain in full effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings of the electric public utility or its successors or assigns. Subsequent to the issuance of rate reduction bonds authorized by a financing order, the financing order shall be irrevocable, and the commission may not:

(a) Amend, modify or terminate the financing order by any subsequent action; or

(b) Reduce, impair, postpone, terminate or otherwise adjust the rate reduction bond charge and security property approved and established in the financing order except as provided in Section 77-3-119.

(5) At the request of an electric public utility, the commission may commence a proceeding and issue a subsequent financing order that authorizes the refinancing or refunding of rate reduction bonds issued pursuant to the original financing order if the commission finds that the subsequent financing order satisfies all of the criteria specified in Sections 77-3-111 through 77-3-127. Effective on retirement of the rate reduction bonds and the issuance of new rate reduction bonds, the commission shall adjust the related rate reduction bond charge accordingly.

**SOURCES:** Laws, 2013, ch. 305, § 6, eff from and after passage (approved Feb. 26, 2013.)



**Editor's Note** — Laws of 2013, ch. 305, §§ 1 and 2, provide:

"SECTION 1. This act shall be known and may be cited as the "Mississippi Public Utility Rate Mitigation and Reduction Act.

"SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

"(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

"(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

"(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

"(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest."

### **§ 77-3-119. Filing of true-up report by issuing entity; review by commission.**

(1) If the commission issues a financing order and rate reduction bonds are issued, the issuing entity shall, as frequently as quarterly but no less frequently than annually, file with the commission a true-up report requesting the commission to review the rate reduction bond charge established in the financing order and authorize the true-up adjustments described herein. A copy of such report shall promptly be served upon the electric public utility collecting the rate reduction bond charge. The report shall present the amount of any overcollection or undercollection of the rate reduction bond charge and shall include a schedule applying the approved true-up adjustment mechanism authorized in the financing order and the resulting amount of any true-up adjustment required to ensure the recovery of revenues sufficient to provide for the timely payment of all financing costs when due.

(2) The commission's review of the true-up report shall be limited to a determination of the existence and amount of any mathematical errors in the report concerning the application of the approved true-up adjustment mechanism. Within thirty (30) days after receiving a true-up report pursuant to this section, the commission shall, if necessary, revise the rate reduction bond charge and notify the electric public utility of such revision, or, if no revision to the rate reduction bond charge is required, the commission shall so notify the electric public utility. A true-up report requesting to revise the rate reduction bond charge shall be deemed approved if the requested revision is neither approved nor denied by the commission within thirty (30) days after the request is submitted.

(3) Any true-up report requesting a true-up adjustment of a rate reduction bond charge shall not constitute a change in rates and shall not be subject to the requirements of Section 77-3-37 or 77-3-39.

(4) Upon the adjustment of a rate reduction bond charge pursuant to this section and notification to the electric public utility, the electric public utility

shall promptly adjust the rate reduction bond charge to become effective the next practicable billing cycle.

**SOURCES:** Laws, 2013, ch. 305, § 7, eff from and after passage (approved Feb. 26, 2013.)

**Editor's Note** — Laws of 2013, ch. 305, §§ 1 and 2, provide:

“SECTION 1. This act shall be known and may be cited as the “Mississippi Public Utility Rate Mitigation and Reduction Act.

“SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

“(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

“(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

“(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

“(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest.”

### **§ 77-3-121. Rate reduction bond charge as nonbypassable charge; legal remedy for failure of electric public utility to remit payment of rate reduction bond charge revenues.**

(1) The rate reduction bond charge is a nonbypassable charge, and in the event an electric public utility subject to a financing order, as a result of insolvency, sale, a fundamental change in regulation of electric public utilities in this State, or other reason, ceases to serve customers within all or a portion of its certificated area, the commission shall have the obligation to ensure that the rate reduction bond charge is collected and transmitted to the issuing entity by any subsequent electric public utility providing service in such certificated area, or portion thereof, no longer being served by the electric public utility that originally petitioned for the financing order.

(2) If an electric public utility fails to remit any required payment of rate reduction bond charge revenues to an assignee, issuing entity, financing party or bondholder, as applicable, such assignee, issuing entity, financing party or bondholder shall have no legal remedy either at law or equity against the electric public utility or its assets, except as specifically provided below:

(a) A court, upon application by an assignee, issuing entity, financing party or bondholder, shall order the sequestration and payment of the rate reduction bond charge revenues for the benefit of any bondholder, assignee, financing party and/or issuing entity.

(b) The court's order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the electric public utility or any affiliate thereof.

**SOURCES:** Laws, 2013, ch. 305, § 8, eff from and after passage (approved Feb. 26, 2013.)

**Editor's Note** — Laws of 2013, ch. 305, §§ 1 and 2, provide:

“SECTION 1. This act shall be known and may be cited as the “Mississippi Public Utility Rate Mitigation and Reduction Act.

“SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

“(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

“(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

“(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

“(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest.”

### § 77-3-123. Security property.

(1) The security property shall constitute an existing, present and legally protectable property right that shall exist regardless of whether the rate reduction bond charges have been billed, have accrued, or have been collected, and notwithstanding any requirement that the value or amount of the property is dependent on the future provision of service to customers by the electric public utility.

(2) Security property authorized and established by a financing order shall continue to exist until the rate reduction bonds issued pursuant to such financing order are paid in full and all financing costs have been recovered in full.

(3) The security property authorized and established by a financing order and the interests of an assignee, bondholder, financing party or issuing entity in the security property are not subject to setoff, recoupment, counterclaim, surcharge, or defense by the electric public utility subject to the financing order or by any other person or entity, including as a result of the electric public utility's failure to provide past, present, or future services, or in connection with the bankruptcy, reorganization, or other insolvency proceeding of the electric public utility, any affiliate, or any other person or legal entity.

(4) All or any portion of security property created by a financing order may be sold, assigned, transferred or conveyed to an assignee for the purpose of acquiring, owning or administering the security property, issuing rate reduction bonds or a combination of these purposes. Any sale, assignment, transfer or conveyance of security property shall be governed by Sections 77-3-111 through 77-3-127.

(5) Any sale, assignment, transfer or conveyance of security property to an assignee shall constitute an absolute transfer and true sale of, and not a



pledge of or secured transaction relating to, the seller's right, title and interest in, to and under the security property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer. A sale, assignment, transfer or conveyance shall be effective only when all of the following have occurred:

(a) The financing order has been issued and has become final;

(b) The sale agreement, purchase agreement or other documents evidencing the sale, assignment, transfer or conveyance of the security property have been executed and delivered to the assignee; and

(c) Value has been given for the security property.

(6) The characterization of the sale, assignment, transfer or conveyance of the security property as an absolute transfer and true sale and the corresponding characterization of the property interest of the assignee, shall not be affected or impaired by, among other things, the occurrence of any of the following factors:

(a) Commingling of rate reduction bond charge revenues with other revenues of the electric public utility or any assignor;

(b) The retention by the electric public utility or assignor of (i) a partial or residual interest, including an equity interest, in the security property, whether direct or indirect, or whether subordinate or otherwise, or (ii) the right to recover costs associated with taxes, franchise fees or other fees imposed on the collection of rate reduction bond charge revenue;

(c) Any recourse that the assignee may have against the electric public utility or any assignor;

(d) Any indemnification rights, obligations or repurchase rights made or provided by the electric public utility or any assignor;

(e) The obligation of the assignor to collect and remit rate reduction bond charge revenue to or on behalf of an assignee;

(f) The regulatory or accounting treatment of the sale, assignment or transfer for tax, financial reporting or other purposes;

(g) Any application of the true-up mechanism as provided in Section 77-3-119;

(h) Granting or providing the bondholders a preferred right to the security property or credit enhancement by the electric public utility or its affiliates with respect to the rate reduction bonds; or

(i) Any rights or interests of the electric public utility in any remaining rate reduction bond charge revenue which may vest upon full payment of the rate reduction bonds as provided for in Section 77-3-117(1)(j).

(7) Once sold, transferred, assigned or conveyed to an assignee as provided in Sections 77-3-111 through 77-3-127, security property shall not be an asset of the electric public utility; but, the electric public utility shall have only a duty to collect and remit to the issuing entity all rate reduction bond charge revenue with respect to the rate reduction bonds.

**SOURCES:** Laws, 2013, ch. 305, § 9, eff from and after passage (approved Feb. 26, 2013.)

**Editor's Note** — Laws of 2013, ch. 305, §§ 1 and 2, provide:

“SECTION 1. This act shall be known and may be cited as the “Mississippi Public Utility Rate Mitigation and Reduction Act.

“SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

“(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

“(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

“(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

“(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest.”

### **§ 77-3-125. Security property as collateral to secure payment of financing costs; relation to Uniform Commercial Code.**

(1) All or any portion of the security property may be pledged or otherwise used by the issuing entity as collateral or other security to secure the payment of financing costs. Except as specifically provided in Sections 77-3-111 through 77-3-127 or in any of the financing documents, only Sections 77-3-111 through 77-3-127 and not the Uniform Commercial Code shall govern:

(a) Security property and any right, title or interest of an electric public utility, an assignee or an issuing entity, whether before or after the issuance of a financing order, in such security property;

(b) The validity, creation, attachment, grant, perfection, priority and enforcement of liens and security interests in security property to secure payment of financing costs;

(c) The validity, attachment, perfection and priority with respect to the transfer of an interest or right or the pledge or creation of a security interest in any security property.

In the event of any conflict between Sections 77-3-111 through 77-3-127 and any other law regarding the provisions of Section 77-3-125, Sections 77-3-111 through 77-3-127 shall govern to the extent of the conflict.

(2) A valid, enforceable and attached lien and security interest in security property shall be created upon the occurrence of all of the following and in no other manner:

(a) The issuance of a financing order contemplating a security interest in the security property;

(b) The execution and delivery of a security agreement by the issuing entity in connection with the issuance of rate reduction bonds which grants a security interest in the security property; and

(c) The giving of value for the rate reduction bonds.

(3) A valid, enforceable and attached security interest may be created in the security property without any physical delivery of collateral or other act,

and shall be perfected against all parties upon the filing of a financing statement in the Office of the Secretary of State of Mississippi and shall thereafter be a continuously perfected lien, and such security interest in security property shall have priority over any other lien, created by contract, operation of law or otherwise, which may subsequently be perfected in the security property unless the holder of any such prior lien has agreed in writing otherwise.

(4) Any sale, assignment, transfer or conveyance of an interest in security property shall not affect the priority of a security interest previously perfected in such security property against all parties having claims of any kind, including any judicial lien or other lien creditors or any claims of the assignor or creditors of the assignor, other than creditors holding a prior security interest, ownership interest or assignment in the security property previously perfected in accordance with Sections 77-3-111 through 77-3-127.

(5) The filing of a financing statement with the Office of the Secretary of State of Mississippi in accordance with this section shall be the only method of perfecting a lien on or security interest in security property. The Office of the Secretary of State of Mississippi shall maintain any financing statement filed pursuant to this section in the same manner that the Office of the Secretary of State of Mississippi maintains financing statements filed against transmitting utilities under Section 75-9-501(b). The filing of any financing statement pursuant to this section shall be governed by the provisions regarding the filing of financing statements in Part 5 of Chapter 9, Title 75 of the Mississippi Code of 1972, codified at Miss. Code Ann. Section 75-9-501 et seq.; provided, however, no continuation statement need be filed to maintain a perfected, valid, enforceable and attached security interest in security property.

(6) The priority of a sale, assignment, transfer, conveyance, lien or security interest perfected in security property pursuant to Sections 77-3-111 through 77-3-127 is not impaired by any later modification of the financing order or security property, any application of the true-up adjustment mechanism, or by the commingling of funds arising from the security property with other funds of an electric public utility or collection agent, and any other right, title, lien or security interest that may apply to those funds shall be terminated as to all funds transferred to an issuing entity, assignee, or financing party directly or transferred to a segregated account for the benefit of an issuing entity, assignee, or financing party.

(7) The description of security property being sold, assigned, transferred or conveyed to an assignee in any sale agreement, purchase agreement, or other transfer agreement, granted or pledged to a secured party in any security agreement, pledge agreement, or other security document, or indicated in any financing statement, shall be sufficient if it describes the financing order that created the security property and states that such agreement or financing statement covers all or part of the security property described in such financing order. This subsection applies to all purported sales, assignments, transfers or conveyances of, and all purported grants or liens or security interests in, security property, regardless of whether the related agreements



were entered into or financing statements were filed, before or after the original effective date of this subsection.

(8) Any right, title or interest pertaining to a financing order, including, but not limited to, the associated security property and rate reduction bond charge revenues shall not be deemed proceeds of any right or interest other than in the financing order and the security property arising from the financing order.

**SOURCES:** Laws, 2013, ch. 305, § 10, *eff from and after passage* (approved Feb. 26, 2013.)

**Editor's Note** — Laws of 2013, ch. 305, §§ 1 and 2, provide:

“SECTION 1. This act shall be known and may be cited as the “Mississippi Public Utility Rate Mitigation and Reduction Act.

“SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

“(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

“(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

“(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

“(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest.”

### **§ 77-3-127. Liability on rate reduction bonds issued under a financing order.**

(1) Rate reduction bonds issued under a financing order shall not constitute a debt or a pledge of the faith and credit or taxing power of the State of Mississippi or of any county, municipality, or any other political subdivision of this state. The issuing entity, assignee, bondholders and financing parties shall have no right to have taxes levied by this state or the taxing authority of any county, municipality, or any other political subdivision of this state for the payment of the principal of, interest on or other financing costs related to rate reduction bonds. The issuance of rate reduction bonds does not, directly, indirectly, or contingently, obligate this state or any county, municipal corporation, or political subdivision of this state to levy any tax or make any appropriation for payment of the principal of, interest on or other financing costs related to the rate reduction bonds.

(2) The state pledges to and agrees with the bondholders, any issuing entity, and any other party under a financing order that the state will not take or permit any action that impairs the value of the security property under the financing order or, except as allowed under Section 77-3-119, reduce, alter or impair rate reduction bond charges that are imposed, charged, collected or

remitted for the benefit of the bondholders, any assignee, and any issuing entity, until all principal, interest and redemption premium in respect of rate reduction bonds, all financing costs, all issuing costs and all amounts to be paid to an issuing entity are paid or performed in full. Any attempt by resolution, bill, motion, order, referendum, amendment, judgment, decision, opinion or other act made contrary to the above pledge by the legislative branch, executive branch, judicial branch, commission or citizenry which impairs or attempts to impair the security property shall require just compensation to the security property owner or owners prior to taking effect.

(3) An issuing entity may include the pledge specified in subsection (2) of this section in the rate reduction bonds, financing documents, and documentation related to the issuance and marketing of the rate reduction bonds.

**SOURCES:** Laws, 2013, ch. 305, § 11, eff from and after passage (approved Feb. 26, 2013.)

**Editor's Note** — Laws of 2013, ch. 305, §§ 1 and 2, provide:

“SECTION 1. This act shall be known and may be cited as the “Mississippi Public Utility Rate Mitigation and Reduction Act.

“SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

“(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

“(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

“(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

“(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest.”

### **§ 77-3-129. Sections 77-3-111 through 77-3-127 deemed full and complete authority for exercise of powers granted therein.**

The provisions of Sections 77-3-111 through 77-3-127 shall be deemed to be full and complete authority for the exercise of the powers therein granted. It is the intent of the Legislature that the authority provided under Sections 77-3-111 through 77-3-127 be limited to the implementation of alternate financing arrangements that may be contemplated by any agreement entered into by the Public Service Commission and the affected electric public utility relating to any qualifying facility as defined in Section 77-3-111.

**SOURCES:** Laws, 2013, ch. 305, § 12, eff from and after passage (approved Feb. 26, 2013.)

## ARTICLE 15.

## MISSISSIPPI TELEPHONE SOLICITATION ACT.

SEC.

77-3-737. Repeal of §§ 77-3-701 through 77-3-737.

**§ 77-3-701. Short title [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 1; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 1; reenacted without change, Laws, 2006, ch. 367, § 1; reenacted without change, Laws, 2010, ch. 324, § 1; reenacted without change, Laws, 2013, ch. 322, § 1, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-703. Legislative findings [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 2; reenacted and amended, Laws, 2005, 2nd Ex Sess, ch. 62, § 2; reenacted without change, Laws, 2006, ch. 367, § 2; reenacted without change, Laws, 2010, ch. 324, § 2; reenacted without change, Laws, 2013, ch. 322, § 2, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-705. Definitions [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 3; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 3; reenacted without change, Laws, 2006, ch. 367, § 3; reenacted without change, Laws, 2010, ch. 324, § 3; reenacted without change, Laws, 2013, ch. 322, § 3, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.



**§ 77-3-707. Use of the “no-calls” database by telephone solicitors mandatory [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 4; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 4; reenacted without change, Laws, 2006, ch. 367, § 4; reenacted without change, Laws, 2010, ch. 324, § 4; reenacted without change, Laws, 2013, ch. 322, § 4, eff from and after July 1, 2013.

**Editor’s Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-709. Commission’s discretion to exempt some telephone solicitors from purchase and use of no-calls database [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 5; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 5; reenacted without change, Laws, 2006, ch. 367, § 5; reenacted without change, Laws, 2010, ch. 324, § 5; reenacted without change, Laws, 2013, ch. 322, § 5, eff from and after July 1, 2013.

**Editor’s Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-711. Exempt categories [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 6; reenacted and amended, Laws, 2005, 2nd Ex Sess, ch. 62, § 6; reenacted without change, Laws, 2006, ch. 367, § 6; reenacted without change, Laws, 2010, ch. 324, § 6; reenacted without change, Laws, 2013, ch. 322, § 6, eff from and after July 1, 2013.

**Editor’s Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-713. Registration of telephone solicitors mandatory [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 7; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 7; reenacted without change, Laws, 2006, ch. 367, § 7;

reenacted without change, Laws, 2010, ch. 324, § 7; reenacted without change, Laws, 2013, ch. 322, § 7, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-715. Regulatory powers of Public Service Commission [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 8; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 8; reenacted without change, Laws, 2006, ch. 367, § 8; reenacted without change, Laws, 2010, ch. 324, § 8; reenacted without change, Laws, 2013, ch. 322, § 8, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-717. Inclusion in no-calls database of Mississippi part of any Federal Trade Commission national database [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 9; reenacted and amended, Laws, 2005, 2nd Ex Sess, ch. 62, § 9; reenacted without change, Laws, 2006, ch. 367, § 9; reenacted without change, Laws, 2010, ch. 324, § 9; reenacted without change, Laws, 2013, ch. 322, § 9, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-719. Nondisclosure of database [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 10; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 10; reenacted without change, Laws, 2006, ch. 367, § 10; reenacted without change, Laws, 2010, ch. 324, § 10; reenacted without change, Laws, 2013, ch. 322, § 10, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it

appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

### **§ 77-3-721. Fees [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 11; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 11; reenacted without change, Laws, 2006, ch. 367, § 11; reenacted without change, Laws, 2010, ch. 324, § 11; reenacted without change, Laws, 2013, ch. 322, § 11, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

### **§ 77-3-723. Rules for authorized calls [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 12; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 12; reenacted without change, Laws, 2006, ch. 367, § 12; reenacted without change, Laws, 2010, ch. 324, § 12; reenacted without change, Laws, 2013, ch. 322, § 12, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

### **§ 77-3-725. Violations; hearings; penalties [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 13; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 13; reenacted without change, Laws, 2006, ch. 367, § 13; reenacted without change, Laws, 2010, ch. 324, § 13; reenacted without change, Laws, 2013, ch. 322, § 13, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.



**§ 77-3-727. Consumer complaints [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 14; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 14; reenacted without change, Laws, 2006, ch. 367, § 14; reenacted without change, Laws, 2010, ch. 324, § 14; reenacted without change, Laws, 2013, ch. 322, § 14, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-729. Defenses [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 15; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 15; reenacted without change, Laws, 2006, ch. 367, § 15; reenacted without change, Laws, 2010, ch. 324, § 15; reenacted without change, Laws, 2013, ch. 322, § 15, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-731. Commission granted personal jurisdiction over resident and nonresident telephone solicitors [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 16; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 16; reenacted without change, Laws, 2006, ch. 367, § 16; reenacted without change, Laws, 2010, ch. 324, § 16; reenacted without change, Laws, 2013, ch. 322, § 16, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-733. Right of appeal [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 17; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 17; reenacted without change, Laws, 2006, ch. 367, § 17; reenacted without change, Laws, 2010, ch. 324, § 17; reenacted without change, Laws, 2013, ch. 322, § 17, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-735. Service providers certificated by commission not liable for violations of others [Repealed effective July 1, 2017].**

**SOURCES:** Laws, 2003, ch. 478, § 18; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 18; reenacted without change, Laws, 2006, ch. 367, § 18; reenacted without change, Laws, 2010, ch. 324, § 18; reenacted without change, Laws, 2013, ch. 322, § 18, eff from and after July 1, 2013.

**Editor's Note** — This section was reenacted without change by Chapter 322, Laws of 2013, effective from and after July 1, 2013. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2010 amendment reenacted the section without change. The 2013 amendment reenacted the section without change.

**§ 77-3-737. Repeal of §§ 77-3-701 through 77-3-737.**

Sections 77-3-701 through 77-3-737 shall stand repealed from and after July 1, 2017.

**SOURCES:** Laws, 2003, ch. 478, § 19; Laws, 2005, 2nd Ex Sess, ch. 62, § 19; reenacted without change, Laws, 2006, ch. 367, § 19; Laws, 2010, ch. 324, § 19; Laws, 2013, ch. 322, § 19, eff from and after July 1, 2013.

**Amendment Notes** — The 2010 amendment substituted “July 1, 2013” for “July 1, 2010.”

The 2013 amendment substituted “July 1, 2017” for “July 1, 2013.”

ARTICLE 17.

CALLER ID ANTI-SPOOFING ACT.

SEC.

- |           |   |
|-----------|---|
| 77-3-801. | Short title.  |
| 77-3-803. | Definitions.  |
| 77-3-805. | Prohibition against entering false information into telephone caller identification system or placing call knowing false information was entered into telephone caller identification system. |
| 77-3-807. | Exceptions.   |
| 77-3-809. | Penalties.  |

**§ 77-3-801. Short title.**

This article may be cited as the “Caller ID Anti-Spoofing Act.”

SOURCES: Laws, 2010, ch. 326, § 1, eff from and after July 1, 2010.

### JUDICIAL DECISIONS

- 1-2. [Reserved for future use.]
- 3. Preemption by federal law.

#### 1-2. [Reserved for future use.]

#### 3. Preemption by federal law.

In light of 47 USCS § 227(e)(1)'s carefully-drafted language and legislative history, and in spite of presumption against preemption that attaches to State's exercise of its police power, there is inherent federal objective in Truth in Caller ID Act of 2009 to protect non-harmful spoofing; Mississippi Caller ID Anti-Spoofing Act's proscription of non-harmful spoofing

(spoofing done without intent to defraud, cause harm, or wrongfully obtain anything of value) frustrates this federal objective and is, therefore, conflict-preempted. *Teltech Sys. v Bryant*, 702 F3d 232 (5th Cir. 2012).

Because court held that Mississippi Caller ID Anti-Spoofing Act was conflict-preempted by Truth in Caller ID Act of 2009, court did not need to consider its validity under dormant Commerce Clause or First Amendment. *Teltech Sys. v Bryant*, 702 F3d 232 (5th Cir. 2012).

### § 77-3-803. Definitions.

As used in this article:

(a) "Call" means any type of telephone call made using a public switched telephone network, wireless cellular telephone service, or Voice-Over-Internet Protocol (VOIP) service that has the capability of accessing users on the public switched telephone network or a successor network.

(b) "Caller" means a person who places a call, whether by telephone, over a telephone line, or on a computer.

(c) "Enter" means to input data by whatever means into a computer or telephone system.

(d) "False information" means data that misrepresents the identity of the caller to the recipient of a call or to the network itself; however, when a person making an authorized call on behalf of another person inserts the name, telephone number or name and telephone number of the person on whose behalf the call is being made, such information shall not be deemed false information.

(e) "Telephone caller identification system" means a listing of a caller's name, telephone number, or name and telephone number that is shown to a recipient of a call when it is received.

SOURCES: Laws, 2010, ch. 326, § 2, eff from and after July 1, 2010.

### § 77-3-805. Prohibition against entering false information into telephone caller identification system or placing call knowing false information was entered into telephone caller identification system.

(1) A person may not enter or cause to be entered false information into a telephone caller identification system with the intent to deceive, defraud or mislead the recipient of a call.



(2) A person may not place a call knowing that false information was entered into the telephone caller identification system with the intent to deceive, defraud or mislead the recipient of the call.

**SOURCES:** Laws, 2010, ch. 326, § 3, eff from and after July 1, 2010.

### § 77-3-807. Exceptions.

This article does not apply to:

- (a) The blocking of caller identification information.
- (b) Any law enforcement agency of the federal, state, county or municipal government.
- (c) Any intelligence or security agency of the federal government.
- (d) A telecommunications, broadband or voice-over-Internet service provider that is acting solely as an intermediary for the transmission of telephone service between the caller and the recipient.

**SOURCES:** Laws, 2010, ch. 326, § 4, eff from and after July 1, 2010.

### § 77-3-809. Penalties.

(1) Any person who violates this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00) or shall be imprisoned in the county jail not exceeding one (1) year, or both.

(2) Any violation of this article constitutes an unlawful trade practice under Section 75-24-5 and, in addition to any remedies or penalties set forth in this article, shall be subject to any remedies or penalties available for a violation of that statute.

**SOURCES:** Laws, 2010, ch. 326, § 5, eff from and after July 1, 2010.

**Cross References** — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

## CHAPTER 5

### Electric Power

Article 5.	Electric Power Associations .....	77-5-201
------------	-----------------------------------	----------

#### ARTICLE 1.

#### MISSISSIPPI RURAL ELECTRIFICATION AUTHORITY.

### § 77-5-23. Grant of specific powers to authority.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (l), by substituting “Chapter 27, Title 11, of the

Mississippi Code of 1972” for “Chapter 33, Title 11, of the Mississippi Code of 1972.” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

ARTICLE 5.

ELECTRIC POWER ASSOCIATIONS.

SEC.

- 77-5-207. Contents of certificate of incorporation.
- 77-5-209. Prohibition on use of words “electric power association” and “electric cooperative.”
- 77-5-215. Amendment of certificate of incorporation.
- 77-5-227. Certificate of membership; voting.
- 77-5-231. Specific powers of corporation.

**§ 77-5-207. Contents of certificate of incorporation.**

The certificate of incorporation shall state:

(a) The name of the corporation, which name shall include the words “electric power association” or “electric cooperative” and shall be such as to distinguish it from any other corporation organized and existing under the laws of this state.

(b) The location of its principal office and the post-office address thereof.

(c) The maximum number of directors, not less than three (3).

(d) The names and post-office addresses of the directors who are to manage the affairs of the corporation for the first year of its existence, or until their successors are chosen.

(e) The period of the duration of the corporation, which shall not exceed ninety-nine (99) years.

(f) The terms and conditions upon which persons shall be admitted to membership in the corporation.

The certificate of incorporation may also contain any provisions not contrary to law which the incorporators may choose to insert for the regulation of its business and for the conduct of the affairs of the corporation. It may also contain any provisions creating, defining, limiting or regulating the powers of the corporation, its directors and members.

**SOURCES:** Codes, 1942, § 5466; Laws, 1936, ch. 184; Laws, 1938, ch. 252; Laws, 2014, ch. 332, § 1, eff from and after passage (approved Mar. 13, 2014.)

**Amendment Notes** — The 2014 amendment inserted “or ‘electric cooperative” following “electric power association” in (a).

**§ 77-5-209. Prohibition on use of words “electric power association” and “electric cooperative.”**

A corporation formed pursuant to the provisions of this article shall include either the words “electric power association” or “electric cooperative.”

The words “electric power association” and the words “electric cooperative” shall not be used in the corporate name of any corporation other than those formed pursuant to the provisions of this article or those operating under this article pursuant to Section 77-5-213. Whenever the words “electric power association” or “electric cooperative” or “nonprofit cooperative electric power association” appear in the laws of this state, such words shall refer to a corporation formed pursuant to and/or operating under the provisions of this article, including a corporation that uses either the words “electric power association” or “electric cooperative” in its name.

**SOURCES:** Codes, 1942, § 5467; Laws, 1936, ch. 184; Laws, 2014, ch. 332, § 2, eff from and after passage (approved Mar. 13, 2014.)

**Amendment Notes** — The 2014 amendment rewrote the section, which read: “The words ‘electric power association’ shall not be used in the corporate name of corporations hereafter formed other than those formed pursuant to the provisions of this article.”

### **§ 77-5-215. Amendment of certificate of incorporation.**

A corporation created or operating under this article may amend its certificate of incorporation to change its corporate name, to increase or reduce the number of its directors, or to change any other provisions therein. Notwithstanding any provisions of a corporation’s certificate or articles of incorporation to the contrary, a corporation created or operating under this article may amend its certificate or articles of incorporation if (a) the amendment is authorized by the board of directors of the corporation pursuant to the affirmative vote of at least two-thirds ( $\frac{2}{3}$ ) of the directors, and (b) the amendment authorized by the board of directors is ratified by sixty percent (60%) of the corporation’s members voting, at either the corporation’s annual meeting or at a meeting of the members called for the special purpose of considering and voting on the amendment. Written notice of any meeting at which an amendment to the corporation’s certificate or articles of incorporation will be voted on by the members must be sent to the corporation’s members at least thirty (30) days prior to the date of the meeting. The notice shall set forth the date, time, location and purpose of the meeting, and identify and describe the purpose of the amendment authorized by the corporation’s board of directors. In the event an amendment is authorized by the board of directors and ratified by the members in accordance with the foregoing, a certificate reflecting the amendment to the certificate or articles of incorporation shall be prepared and executed by the president and by the secretary of the corporation who shall both affirm therein, under oath, that they have been authorized by the corporation to execute and file such certificate. Such certificate of amendment shall then be filed by the corporation in the Office of the Secretary of State, and the amendment of the corporation’s certificate or articles of incorporation shall be effective as of the date on which the certificate of amendment is file stamped by the Secretary of State.



**SOURCES:** Codes, 1942, § 5483; Laws, 1936, ch. 184; Laws, 2014, ch. 333, § 1, eff from and after passage (approved Mar. 13, 2014.)

**Amendment Notes** — The 2014 amendment rewrote the section by , which read: “A corporation created under this article may amend its certificate of incorporation to change its corporate name, to increase or reduce the number of its directors, or to change any other provisions therein. However, no corporation shall amend its certificate of incorporation to embody therein any purpose, power or provision which would not be authorized if its original certificate including such additional or changed purpose, power or provision were offered for filing at the time a certificate under this section is offered. Such amendment may be accomplished by filing a certificate which shall be entitled and indorsed ‘certificate of amendment of certificate of incorporation of \_\_\_\_\_ electric power association,’ and state:

“(a) The name of the corporation, and if it has been changed the name under which it was originally incorporated.

“(b) The date of filing the certificate of incorporation in each public office where filed.

“(c) The purposes, powers or provisions, if any, to be amended or eliminated and the purposes, powers, or provisions, if any, to be added or substituted.

“Such certificate shall be subscribed in the same manner as an original certificate of incorporation by the president or a vice-president and by the secretary or an assistant secretary who shall make and annex an affidavit stating that they have been authorized to execute and file such certificate by the votes cast in person or by mail by a majority of the members of the corporation entitled to vote. Such certificate shall be filed in the same places and approved by the same officers as an original certificate of incorporation, and thereupon the amendment shall be deemed to have been effected.”

### § 77-5-227. Certificate of membership; voting.

A corporation may issue to its members certificates of membership in such form as the bylaws may prescribe. Each member shall be entitled to only one (1) vote on each matter submitted to a vote at the meetings of the members of the corporation, but voting by proxy, by mail or electronically may be provided for in the bylaws.

**SOURCES:** Codes, 1942, § 5471; Laws, 1936, ch. 184; Laws, 1938, ch. 252; Laws, 2014, ch. 331, § 1, eff from and after passage (approved Mar. 13, 2014.)

**Amendment Notes** — The 2014 amendment in the last sentence, inserted “(1)” following “one,” and substituted “voting by proxy, by mail or electronically” for “voting by proxy or by mail.”

### § 77-5-231. Specific powers of corporation.

A corporation created under the provisions of this article shall have power to do any and all acts or things necessary or convenient for carrying out the purposes for which it was formed, including, but not limited to:

(a) To sue and be sued.

(b) To have a seal and alter the same at pleasure.

(c) To acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein and to pay therefor in cash or property or on credit, and to secure and procure payment of all or any part of the

purchase price thereof on such terms and conditions as the board shall determine.

(d) To render service and to acquire, own, operate, maintain and improve a system or systems within the state and in counties adjacent thereto.

(e) To pledge all or any part of its revenues and to mortgage or otherwise incumber all or any part of its property for the purpose of securing the payment of the principal of and interest on any of its bonds or other obligations.

(f) To use any right-of-way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of a system, granted by the state or any political subdivision thereof, provided that the governing body of such political subdivision shall consent to such use, and to have and exercise the power of eminent domain in the manner provided by the condemnation laws of this state for acquiring private property for public use, such right to be paramount except as to the property of the state or of any political subdivision thereof.

(g) To accept gifts or grants of money, property, real or personal, from any person, municipality or federal agency and to accept voluntary and uncompensated services.

(h) To make any and all contracts necessary or convenient for the full exercise of the powers in this article granted, including, but not limited to, contracts with any person, federal agency, state agency or municipality for the purchase, transfer or sale of energy and/or the acquisition of all or any part of any system, and in connection with any such contract to stipulate and agree to such covenants, terms and conditions as the board may deem appropriate, including covenants, terms and conditions with respect to the resale rates, financial and accounting methods, services, operation and maintenance practices and the manner of disposing of the revenues of the system operated and maintained by the corporation.

(i) To sell, lease, or otherwise dispose of all or any part of its property, subject however to the provisions of Section 77-5-237.

(j) To contract debts, borrow money and to issue, assume or indorse the payment of bonds or other evidences of indebtedness.

(k) To fix, maintain and collect fees, rents, tolls and other charges for services rendered.

(l) To acquire and to sell, lease, distribute and generally to deal in electrical and plumbing appliances, apparatus, machinery and equipment for the purpose of and in connection with the promotion of the sale of electric energy to its customers; to assist its customers to purchase or otherwise obtain such appliances, apparatus, machinery and equipment; to assist its customers to wire their premises and to install therein such appliances, apparatus, machinery and equipment; to acquire and to indorse, sell, pledge, hypothecate and dispose of notes, bonds and other obligations of its customers in carrying out the purposes expressed in this paragraph.

(m) To perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents and employees, or by contracts with any person, federal agency or municipality.

(n) To condemn any land, easements, or rights-of-way, either on, under, or above the ground, as the association may deem necessary for any purposes mentioned in this article, and such property or interest in such property may be so acquired whether or not the same is owned or held for public use by corporations, associations or persons having the power of eminent domain, or otherwise held or used for public purposes. Such power of condemnation may be exercised in the mode or method of procedure prescribed by Chapter 27, Title 11, Mississippi Code of 1972, or in the mode or method of procedure prescribed by any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain. Where condemnation proceedings become necessary, the judge of the circuit court or the judge of the county court in counties where the county court exists, in which such proceedings are filed, shall, upon application of the authority, and upon the deposit in court, to the use of the person or persons lawfully entitled thereto, of such amount as the judge may deem necessary to assure just compensation, order that the right of possession shall issue immediately or as soon and upon such terms as the judge, in his discretion, may deem just and proper. Upon application of the parties in interest other than the corporation, the judge may order that the money deposited in the court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in said proceedings.

**SOURCES:** Codes, 1942, § 5474; Laws, 1936, ch. 184; Laws, 1938, chs. 251, 252; Laws, 2013, ch. 466, § 2, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment, in (h), inserted “state agency” preceding “or municipality for the purchase” and inserted “transfer” thereafter; and made a minor stylistic change.

## ARTICLE 9.

### LOCAL GOVERNMENTAL POWER DEVELOPMENT UNDER LAWS OF 1936.

#### § 77-5-441. Exercise of power of eminent domain by municipality.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error by substituting “Chapter 27, Title 11, of the Mississippi Code of 1972” for “Chapter 33, Title 11, of the Mississippi Code of 1972.” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.



## CHAPTER 9

## Railroads and Other Common Carriers

Article 3.	Railroads and Railroad Corporations .....	77-9-101
------------	---	----------

## ARTICLE 3.

## RAILROADS AND RAILROAD CORPORATIONS.

Safety .....	77-9-221
--------------	----------

## SAFETY

SEC.	
77-9-250.	Operation Lifesaver Program; purpose; Operation Lifesaver Fund created; sources of funds.

**§ 77-9-225. Locomotives to give warning when approaching crossings; penalty.**

## JUDICIAL DECISIONS

## II. PRACTICE AND PROCEDURE.

## 7. Evidence.

## II. PRACTICE AND PROCEDURE.

## 7. Evidence.

Railroad was properly granted summary judgment dismissing appellants' negligence claims, as the evidence established that the train was traveling below the speed limit, that the crew kept a

proper lookout, that the train's whistle blew 900 feet before the crossing as required by statute, and that the emergency brake was activated before impact, and appellants did not support their claim that the railroad failed to clear vegetation near crossing or to maintain an adequate crossing warning system. *Estate of Bloodworth v. Ill. Cent. R.R. Co.*, 129 So. 3d 888 (Miss. 2013).

**§ 77-9-249. Obedience to signal indicating approach of train; penalties.**

**Cross References** — Imposition of state assessment in addition to all other state assessments due under § 99-19-73 and all court imposed fines or other penalties for any violation of this section, see § 99-19-73.

**§ 77-9-250. Operation Lifesaver Program; purpose; Operation Lifesaver Fund created; sources of funds.**

(1) There is created within the Department of Transportation the Operation Lifesaver Program. The purpose of the program is to increase safety of and prevent loss of life and property at railroad crossings by increasing compliance, on the part of the railroads and the public, with the provisions of Section 77-9-249.

(2) There is created in the State Treasury a special fund to be known as the Operation Lifesaver Fund. The purpose of the fund shall be to provide funding for the Operation Lifesaver Program. Monies from the funds derived from assessments under Section 99-19-73 shall be distributed by the State Treasurer upon warrants issued by the Mississippi Department of Transportation. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

- (a) Monies appropriated by the Legislature for the purposes of funding Operation Lifesaver;
- (b) The interest accruing to the fund;
- (c) Monies received under the provisions of Section 99-19-73;
- (d) Monies received from the federal government;
- (e) Donations; and
- (f) Monies received from such other sources as may be provided by or allowable under law.

**SOURCES:** Laws, 2010, ch. 495, § 3, eff from and after July 1, 2010.

**§ 77-9-254. Removal by railroad companies of vegetation at railroad right-of-way grade crossings; specifications; inspections by Department of Transportation; fines; damages.**

**JUDICIAL DECISIONS**

- 2. Evidence.
- 3. Summary judgment.

**2. Evidence.**

Expert's opinion did not support appellants' claim that a train crew's view of a crossing was obstructed by vegetation in violation because his opinion regarding sight-distance deficiencies was based on calculations of a train traveling at 79 mph, while the evidence established that it had been traveling at approximately 49 mph as it approached the crossing. *Estate of Bloodworth v. Ill. Cent. R.R. Co.*, 129 So. 3d 888 (Miss. 2013).

**3. Summary judgment.**

Railroad was properly granted summary judgment dismissing appellants'

negligence claims, as the evidence established that the train was traveling below the speed limit, that the crew kept a proper lookout, that the train's whistle blew 900 feet before the crossing as required by statute, and that the emergency brake was activated before impact, and appellants did not support their claim that the railroad failed to clear vegetation near crossing or to maintain an adequate crossing warning system. *Estate of Bloodworth v. Ill. Cent. R.R. Co.*, 129 So. 3d 888 (Miss. 2013).

## ARTICLE 7.

## TELEGRAPH AND TELEPHONE COMPANIES.

**§ 77-9-715. Liability for damages caused by erection, continuance and use of lines.****JUDICIAL DECISIONS**

2. Statute of frauds.
3. Constructive license.
4. Damages for trespass.

**2. Statute of frauds.**

Where a telephone company's constructive license to continue and use telephone lines and fixtures derived from Miss. Code Ann. § 77-9-715, the constructive license did not violate the statute of frauds, Miss. Code Ann. § 15-3-1, because the statute of frauds did not apply given that the telephone company's rights arose by operation of law and did not come from a contract. *Marlow, LLC v. BellSouth Telecomms., Inc.*, — F. Supp. 2d —, 2011 U.S. Dist. LEXIS 54309 (S.D. Miss. May 18, 2011), affirmed in part and reversed in part by, remanded by 686 F.3d 303, 2012 U.S. App. LEXIS 13425 (5th Cir. Miss. 2012).

**3. Constructive license.**

Where a telephone company had telephone lines and fixtures that ran over a landowner's private property, the telephone company had a constructive license to use the lines and fixtures pursuant to Miss. Code Ann. § 77-9-715 because § 77-9-715 was not limited to construction of

telephone lines on public rights-of-way; thus, the landowner was not entitled to an injunction requiring the removal of the telephone company's equipment. *Marlow, LLC v. BellSouth Telecomms., Inc.*, — F. Supp. 2d —, 2011 U.S. Dist. LEXIS 54309 (S.D. Miss. May 18, 2011), affirmed in part and reversed in part by, remanded by 686 F.3d 303, 2012 U.S. App. LEXIS 13425 (5th Cir. Miss. 2012).

**4. Damages for trespass.**

Where a telephone company had a constructive license under Miss. Code Ann. § 77-9-715 to use telephone lines and fixtures that ran over a landowner's private property, the landowner was not entitled to any damages for trespass because the telephone company had paid the prior owners of the property compensation for the permanent right to use the land and keep it cleared. *Marlow, LLC v. BellSouth Telecomms., Inc.*, — F. Supp. 2d —, 2011 U.S. Dist. LEXIS 54309 (S.D. Miss. May 18, 2011), affirmed in part and reversed in part by, remanded by 686 F.3d 303, 2012 U.S. App. LEXIS 13425 (5th Cir. Miss. 2012).

**CHAPTER 11****Gas Pipelines and Distribution Systems**

## ARTICLE 1.

## ENFORCEMENT OF NATURAL GAS PIPELINE SAFETY STANDARDS.

**§ 77-11-3. Civil penalties.**

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (1), by substituting "subparagraph (ii) of paragraph (d)" for "subparagraph (2) of paragraph (d)." The Joint Committee ratified the correction at



its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

ARTICLE 7.

INTRASTATE GAS PIPELINES.

§ 77-11-305. Definitions.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (e) by substituting “Section 77-3-3(d)(ii)” for “Section 77-3-3(d)(2).” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

CHAPTER 13

**Regulation of Excavations Near Underground Utility Facilities**

SEC.

- 77-13-3. Definitions.
- 77-13-9. Marking location of underground facilities; timeliness.
- 77-13-23. Operator waives right to recover damages to operator’s underground facilities under certain circumstances; exemption.
- 77-13-25. Effect of chapter on certain contracts between railroads and owners or operators of underground facilities or utility lines on railroad right-of-way.

§ 77-13-3. Definitions.

The words defined in this section shall have the following meanings when found in this chapter:

(a) “Excavate or excavation” shall mean any operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced by any means, except: (i) the tilling of the soil less than twenty-four (24) inches in depth for agricultural purposes; or (ii) an operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced to a depth of less than twelve (12) inches on private property by the property owner without the use of mechanical excavating equipment; or (iii) an operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced without the use of mechanical excavating equipment to a depth of less than twelve (12) inches on private property by an excavator who is not the property owner, except when such excavation is in a clearly marked underground facility right-of-way; or (iv) routine railroad maintenance activities conducted within the track structure, drainage ditches, or within the railroad right-of-way a distance not to exceed thirty (30) feet from the outside rail of the outermost track or tracks, provided this work is performed by railroad employees or railroad contractors and is carried out

with reasonable care so as to protect any underground facilities properly installed in the railroad right-of-way by agreement with the railroad. The term “excavate” shall include, but not be limited to, the operations of demolition, blasting, grading, land leveling, trenching, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing, driving, jacking, wrecking, razing, rending, moving or removing any structure or other material or mass of material on or below the ground.

(b) “Utility” shall mean any person who supplies, distributes or transports by means of underground utility lines or underground facilities any of the following materials or services: gas, mixture of gases, petroleum, petroleum products or hazardous, toxic, flammable or corrosive liquids, electricity, telecommunications (including fiber optics), sewage, drainage, water, steam or other substances.

(c) “Underground utility lines” shall mean underground or buried cable, conduit pipes and related facilities for transportation and delivery of electricity, telecommunications (including fiber optics), water, sewage, gas, mixtures of gases, petroleum, petroleum products or hazardous, flammable, toxic or corrosive liquids.

(d) “Underground facility” shall mean any underground utility lines and other items which shall be buried or placed below ground or submerged for use in connection with underground utility lines and including, but not be limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, vaults, attachments and those portions of poles below the ground.

(e) “Person” shall mean any individual, firm, partnership, association, trustee, receiver, assignee, corporation, entity, limited liability company, utility, joint venture, municipality, state governmental unit, subdivision or instrumentality of the state, or any legal representative thereof.

(f) “Damage” shall mean the substantial weakening of structural or lateral support of underground utility lines and underground facilities, penetration or destruction of any protective coating, housing or other protective devices of an underground utility line or underground facility, and the partial or complete severance of any underground utility line or underground facility, but does not include any operator’s abandoned facility.

(g) “Operator” shall mean any person who owns or operates a utility. However, the term “operator” shall not include any railroad or the Mississippi Department of Transportation.

(h) “Working day” shall mean a twenty-four-hour period commencing from the time of receipt by Mississippi 811, Inc., of the notification in accordance with this chapter, excluding Saturdays, Sundays and legal holidays.

(i) “Mechanical excavating equipment” shall mean all equipment powered by any motor, engine, or hydraulic or pneumatic device used for excavating and shall include, but not be limited to, trenchers, bulldozers, backhoes, power shovels, scrapers, draglines, clam shells, augers, drills, cable and pipe plows and other plowing-in or pulling-in equipment.

(j) “Excavator” shall mean any person who engages directly in excavation.

(k) “Mark” shall mean the use of stakes, paint or other clearly identifiable materials to show the field location of underground facilities in accordance with the current color code standard of the American Public Works Association, or the uncovering or exposing of underground facilities so that the excavator may readily see the location of same, or the pointing out to the excavator of certain aboveground facilities such as, but not limited to, manhole covers, valve boxes and pipe and cable risers, which indicate the location of underground facilities.

(l) “Mississippi One-Call System, Inc.,” shall mean “Mississippi 811, Inc.” Whenever the term “Mississippi One-Call System, Inc.,” appears in this chapter, the term shall mean “Mississippi 811, Inc.”

(m) Mississippi 811, Inc., “shall mean a nonprofit corporation organized under the laws of the State of Mississippi that provides a service through which a person can notify the operator(s) of underground facilities of plans to excavate and request marking of facilities.

(n) “Abandoned facility” shall mean any underground utility line or underground utility facilities no longer used in the conduct of the owner/operator’s business and are not intended to be used in the future.

(o) “Emergency excavation” shall mean excavation at times of emergency involving danger to life, health or property or a customer service outage.

(p) “Approximate location” of underground utility lines or underground facilities shall mean information about an operator’s underground utility lines or underground facilities which is provided to a person by an operator and must be accurate within eighteen (18) inches measured horizontally from the outside edge of each side of such operator’s facility, or a strip of land eighteen (18) inches either side of the operator’s field mark, or the marked width of the facility or line plus eighteen (18) inches on each side of the marked width of the facility or line.

(q) “Positive response information system” or “PRIS” means an automated information system operated and maintained by Mississippi 811, Inc., that allows excavators, locators, facility owners or operators, and other affected parties to enter and/or determine the status of a locate request.

**SOURCES:** Laws, 1985, ch. 494, § 2; Laws, 1997, ch. 483, § 1; reenacted without change, Laws, 1999, ch. 302, § 2; Laws, 2008, ch. 497, § 1; Laws, 2009, ch. 382, § 1; Laws, 2010, ch. 427, § 1; Laws, 2014, ch. 354, § 1, eff from and after July 1, 2014.

**Amendment Notes** — The 2010 amendment, substituted “found in this chapter” for “found in Sections 77-13-1 through 77-13-77” in the introductory language; added the last sentence in (g); substituted “Mississippi 811, Inc.” for “Mississippi One-Call System, Inc.” in (h) and (q); rewrote (l), which formerly read: “Mississippi One-Call System, Inc.,” shall mean a nonprofit corporation organized under the laws of the State of Mississippi that provides a service through which a person can notify the operator(s) of underground facilities of plans to excavate and request marking of facilities”; and added present (m) and redesignated the remaining subsections accordingly.

The 2014 amendment in (a), added clause (iv) and made a related stylistic change.



### **§ 77-13-5. Excavator's investigation of site; notice to utility of planned excavation.**

**Editor's Note** — Section 77-13-3 provides that the term "Mississippi One-Call System, Inc." shall mean "Mississippi 811, Inc."

### **§ 77-13-7. Notification of damaged lines.**

**Editor's Note** — Section 77-13-3 provides that the term "Mississippi One-Call System, Inc." shall mean "Mississippi 811, Inc."

### **§ 77-13-9. Marking location of underground facilities; timeliness.**

(1) Every person owning or operating underground utility lines or underground facilities shall, upon receiving advance notice of the commencement of excavation, in accordance with Section 77-13-7, make an investigation, and may report through the use of the PRIS the status of the work performed, within two (2) working days from the time notice is provided in accordance with this chapter to the Mississippi 811, Inc., to determine the approximate location of its underground utility lines or underground facilities in the area of the proposed excavation, and shall either: (a) mark the approximate location of underground utility lines and underground facilities in or near the area of the excavation, so as to enable the person engaged in excavation work to locate the lines and facilities in advance of and during the excavation work; (b) advise in writing or by telephone or electronic means that it has no underground utility lines or underground facilities in the excavation area; or (c) advise in writing or by telephone or electronic means that it can locate its underground utility lines or underground facilities in the excavation area only by excavation. If an operator can locate its underground utility lines or underground facilities in the excavation area only by excavation and has given proper notice of such, that operator shall be allowed a reasonable amount of additional time, not to exceed two (2) additional working days, to mark the approximate location of the underground utility lines or underground facilities.

(2) In lieu of such marking, the operator may request to be present at the site upon commencement of the excavation, so long as the operator complies within two (2) working days of the receipt of the notice.

(3) When an excavator, upon arriving at an excavation site, sees evidence of unmarked underground utility lines or underground facilities or encounters an unmarked underground utility line or underground facility on an excavation site after excavation has commenced where notice of intent has been made in accordance with the provisions of this chapter, that excavator must immediately contact Mississippi 811, Inc. All operator(s) thus notified must contact the excavator within four (4) hours and inform the excavator of any of their known underground facilities, active or abandoned, at the site of the excavation.

(4) When marking the approximate location of the facilities, the operator shall follow the color code designated and described herein, unless otherwise

provided for by specific administrative rule or regulation promulgated pursuant to this chapter, namely:

UTILITY OR TYPE OF FACILITY	GROUP IDENTIFYING COLOR
Electric	Safety Red
Petroleum Product/Hazardous/ Flammable/Corrosive/Toxic Materials, Product and Steam Lines, Gas or Gaseous Material	High Visibility Safety Yellow
Telecommunications (including fiber optic) and CATV	Safety Alert Orange
Potable Water	Safety Precaution Blue
Reclaimed Water, Irrigation, Slurry Lines	Purple
Sewer and Drain Lines	Safety Green
Temporary Survey Markings	High Visibility Pink
Proposed Excavation	White

(5) All utility facilities installed by owners or operators of utilities on or after January 1, 2010, shall be installed in such manner that the utility facility may be located by using a generally accepted electronic locating method.

(6) Except for emergency excavations, if, before the expiration of the two (2) working days waiting period, all identified facility owners or operators have responded to the locate request and all have indicated that their facilities are either not in conflict or have been marked as indicated through the use of the PRIS, then the person planning to perform excavation or blasting shall be authorized to commence work, subject to the other requirements of this section, without waiting the full two (2) working days.

**SOURCES:** Laws, 1985, ch. 494, § 5; Laws, 1997, ch. 483, § 4; reenacted without change, Laws, 1999, ch. 302, § 5; Laws, 2008, ch. 497, § 4; Laws, 2009, ch. 382, § 3; Laws, 2010, ch. 427, § 2, eff from and after passage (approved Mar. 24, 2010.)

**Amendment Notes** — The 2010 amendment, in (1) and (3), substituted “Mississippi 811, Inc.” for “Mississippi One-Call System, Inc.”; and added (1)(c) and made a related change.

## § 77-13-15. Notice to one-call system.

**Editor’s Note** — Section 77-13-3 provides that the term “Mississippi One-Call system shall mean “Mississippi 811, Inc.”

## § 77-13-17. Operator responsibilities.

**Editor’s Note** — Section 77-13-3 provides that the term “Mississippi One-Call system shall mean “Mississippi 811, Inc.”

**Cross References** — Operator suffering damages as result of failure to participate as member of Mississippi 811, Inc., waives right to recover damages to operator’s

underground facilities from excavator who complied with provisions of this chapter, see § 77-13-23.

**§ 77-13-23. Operator waives right to recover damages to operator's underground facilities under certain circumstances; exemption.**

Any operator who suffers damages as a result of not participating as a member of Mississippi 811, Inc., waives the right to recover damages to the operator's underground facilities from the excavator if the excavator complied with the provisions of this chapter. The provisions of this section shall not apply to any municipality, as defined in Section 17-1-1, that owns or operates a utility.

**SOURCES:** Laws, 2010, ch. 427, § 3, eff from and after passage (approved Mar. 24, 2010.)

**§ 77-13-25. Effect of chapter on certain contracts between railroads and owners or operators of underground facilities or utility lines on railroad right-of-way.**

Nothing in this chapter shall modify or abrogate any contractual provision entered into between any railroad and any other party owning or operating an underground facility or underground utility lines within the railroad's right-of-way.

**SOURCES:** Laws, 2014, ch. 354, § 2, eff from and after July 1, 2014.

## **CHAPTER 15**

### **Local Natural Gas Districts**

SEC.

77-15-1. Board of directors of local natural gas districts.

**§ 77-15-1. Board of directors of local natural gas districts.**

(1) Notwithstanding any other provisions of law to the contrary, all local natural gas districts containing two (2) or more municipalities and nonmunicipal customers shall establish and maintain a board of directors composed of: (a) the mayors of each municipality within the district whose terms shall be concurrent with their terms of office as mayor; and (b) one (1) system-user from each county within the district, who shall not be a public official. The county system-user board members shall be elected by the system-users residing outside of a municipality, in the county in which such board member resides. In order to qualify as a candidate for election to the board, each person shall obtain, on a petition, twenty-five (25) signatures from system-users in the county in which such person resides. The signatures shall be of system-users residing outside of a municipality and the candidate shall



be a system-user who resides outside of a municipality. The board shall call an election within fifteen (15) days after July 1, 1989, to be held within sixty (60) days from the date such election is called. From and after July 1, 2007, the procedures for, and conduct of, the election of board members of the district shall be held in accordance with the provisions of subsection (6) of this section. Those persons elected to the board shall serve until the next general election for supervisors and the election for such board members thereafter shall be held at the same time as the supervisor elections and the terms of such board members shall be concurrent with the terms of the supervisors. The board of directors, including any mayors who serve on the board, shall be entitled to compensation as follows: (a) the chairperson of the board shall receive Two Hundred Fifty Dollars (\$250.00) per month, and (b) all other board members shall receive Two Hundred Dollars (\$200.00) per month. The chairperson and vice chairperson shall be elected by and from the entire membership of the governing board at the first meeting in July of each year. The vice chairperson shall preside over meetings as the chairperson in the absence or incapacity of the chairperson. In addition, an official meeting may be called at any time by a two-thirds (⅔) proclamation by the board membership.

(2) Two (2) board municipal/county system-user board members who reside in his or her respective county, and must be customers of the district, and who must be system-users shall be appointed as follows for his or her initial term: (a) one (1) board member from the county lying in the northern section of the district, appointed by the Lieutenant Governor; and (b) one (1) board member from the county lying in the southern section of the district, appointed by the Governor. The appointed board municipal/county system-user board members may be elected public officials.

The initial terms of the two (2) municipal/county system-user board members shall begin July 1, 2005, and shall serve until June 30, 2008, and thereafter the municipal/county system-user board members, as described in this subsection (2), shall be elected by the municipal and county system-users as follows: The successors in office to the board member who was appointed from the county lying in the northern section of the district shall be elected only by the municipal and county system-users who reside in that county and not by all of the system-users in the district. The successors in office to the board member who was appointed from the county lying in the southern section of the district shall be elected only by the municipal and county system-users who reside in that county and not by all of the system-users in the district.

The municipal/county system-user board members shall be compensated as prescribed in subsection (1) of this section.

(3) All board members shall file any required statements of economic interest with the Ethics Commission as required by law. This section shall not apply to any local natural gas district which leases its distribution system to an investor-owned utility company regulated by the Public Service Commission.

(4) From and after July 1, 2004, the Board of Directors of the Chickasawhay Natural Gas District shall discontinue distribution of any of the revenues of the district to municipalities within the district.

(5) The provisions of this section shall only apply to the Chickasawhay Natural Gas District.

(6) The provisions of this subsection shall govern the procedure for, and conduct of, any election of the board of directors of the district. The board may adopt any rules and regulations pertaining to the election of the board of directors of the district that are not inconsistent and do not conflict with the provisions of this subsection.

(a) Notice of the election of one or more members of the board of directors shall be sent by regular United States mail to each system-user not less than thirty (30) days and not more than sixty (60) days from the election date. The notice shall state the time, place and manner in which the system-users may vote for the board of directors.

(b) The election shall be held in a manner and according to procedures to be established by rules and regulations adopted by the board before the giving of notice of the election, and a printed copy of such rules and regulations shall accompany the notice.

(c) The rules and regulations for the conduct of the election shall include the following provisions:

(i) To qualify as a candidate, a person shall not be a public official and must be a county system-user and such person must submit to the board, not less than twenty (20) days before the election, a petition containing the signatures of twenty-five (25) system-users in the county in which the candidate resides;

(ii) Notice of the nomination of qualified candidates sent by regular United States mail to the system-users at least ten (10) days before the date of the election;

(iii) The method of voting on the date of the election shall be by personal attendance at the district's office in Waynesboro, by personal attendance at the district's office in Quitman, or by proxy;

(iv) Each system-user shall have one (1) vote, provided that when a billing for service is made to more than one (1) person at a single address or location, each such person shall be limited to casting a pro rata share of the one (1) vote to which the billing address or location is entitled; and

(v) The time of the election shall be fixed between the hours of 10:00 a.m. and 6:00 p.m. on a day of the week other than Sunday.

(d) A certified public accountant appointed by the board shall count all votes, whether cast by personal attendance or by proxy, and he shall certify the results of the election to the board within ten (10) days of the election.

**SOURCES:** Laws, 1989, ch. 560, § 1; Laws, 1991, ch. 504, § 1; Laws, 2004, ch. 562, § 4; Laws, 2005, ch. 496, § 1; Laws, 2006, ch. 428, § 1; reenacted and amended, Laws, 2007, ch. 592, § 1; Laws, 2010, ch. 344, § 1, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment deleted (7), which was a repealer for the section.





# Index

---

## C

### **CALLER ID.**

**Anti-spoofing**, §§77-3-801 to 77-3-809.

## E

### **ELECTRIC POWER.**

**Cost recovery on base load generation.**

Rate mitigation in connection with generating facility, §77-3-106.

**Rate mitigation and reduction through securitization financing arrangements**, §§77-3-111 to 77-3-129.

### **ELECTRIC POWER ASSOCIATIONS. Name.**

Use of certain language in corporate name, §77-5-209.

## G

### **GAS DISTRICTS.**

**Local natural gas districts.**

Board of directors, §77-15-1.

## M

### **MISSISSIPPI 811, INC.**

**Railroad rights-of-way, underground facilities within.**

Effect of provisions, §77-13-25.

**MISSISSIPPI 811, INC.,** §§77-13-1 to 77-13-23.

**Operator waiver of right to recover damages**, §77-13-23.

## P

**PUBLIC SERVICE COMMISSION,** §§77-1-1 to 77-1-55.

**Interstate rates, charges and classifications.**

Hiring of attorneys and consultants to seek federal relief from, §77-1-55.

## R

### **RAILROAD GRADE CROSSINGS.**

**Operation Lifesaver program,** §77-9-250.

### **RAILROADS.**

**Mississippi 811, Inc.**

Railroad rights-of-way, underground facilities within.

Effect of provisions, §77-13-25.

## T

### **TELECOMMUNICATIONS.**

**Federal communications commission standards for carriers.**

Public service commission may apply, §77-3-35.

**TELEMARKETING,** §§77-3-701 to 77-3-737.







